MEDICARE AND MEDICAID PATIENT AND PROGRAM PROTECTION ACT OF 1984

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH

COMMITTEE ON WAYS AND MEANS

AND

SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 5989

TO AMEND THE SOCIAL SECURITY ACT TO PROTECT BENEFICIARIES UNDER HEALTH CARE PROGRAMS OF THAT ACT FROM UNFIT HEALTH CARE PRACTITIONERS, AND TO OTHERWISE IMPROVE THE ANTIFRAUD PROVISIONS OF THAT ACT

SEPTEMBER 18, 1984

COMMITTEE ON WAYS AND MEANS

Serial 98–103

COMMITTEE ON ENERGY AND COMMERCE

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MEDICARE AND MEDICAID PATIENT AND PROGRAM PROTECTION ACT OF 1984

TUESDAY, SEPTEMBER 18, 1984

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON HEALTH OF THE COMMITTEE ON WAYS AND MEANS, AND SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT OF THE COMMITTEE ON ENERGY AND COMMERCE,

Washington, DC.

The subcommittees met at 2 p.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Andy Jacobs, Jr. (chairman of the Ways and Means Subcommittee on Health) and Hon. Henry A. Waxman (chairman of the Energy and Commerce Subcommittee on Health and the Environment) presiding.

[The press release announcing the hearing and a copy of the bill, H.R. 5989, follow:]

[For immediate release, Monday, September 10, 1984]

HON. ANDY JACOBS, JR. (D., IND.), CHAIRMAN, SUBCOMMITTEE ON HEALTH, COMMITTEE ON WAYS AND MEANS, AND HON. HENRY A. WAXMAN (D., CALIF.), CHAIRMAN, SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT, COMMITTEE ON ENERGY AND COMMERCE, TODAY ANNOUNCED A JOINT HEARING ON H.R. 5989, THE MEDICARE AND MEDICAID PATIENT AND PROGRAM PROTECTION ACT OF 1984, TO BE HELD ON TUESDAY, SEPTEMBER 18, 1984

The Honorable Andy Jacobs, Jr. (D., Ind.), Chairman of the Subcommittee on Health of the Committee on Ways and Means, and the Honorable Henry A. Waxman (D., Calif.), Chairman of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, announced today that their Subcommittees will hold a joint hearing on H.R. 5989, the Medicare and Medicaid Patient and Program Protection Act of 1984. This hearing will be held on Tuesday, September 18, 1984, at 2:00 p.m. in the Energy and Commerce Committee's Main Hearing Room, 2123 Rayburn House Office Building.

BACKGROUND

H.R. 5989 would require the Secretary to exclude from medicare and direct States to exclude from medicaid, the maternal and child health program, and title XX social services any individual or entity convicted of a criminal offense related to these programs for a minimum of 5 years. The Secretary would be permitted to exclude from medicare and could direct the State agencies to exclude from the above programs any individual or entity convicted of certain offenses such as fraud, financial abuse, neglect or abuse of patients, or unlawful distribution of a controlled substance.

The Secretary would be permitted to exclude from medicare and could direct the States to exclude from the above programs any individual whose license to provide health care has been revoked or suspended or who has surrendered his or her license or has left the State while an action was pending, or who has otherwise been sanctioned under any Federal program involving the provision of health care. The Secretary would be permitted to exclude from medicare any individual convicted of a medicaid-related offense and vice versa.

The State medicaid programs would be required to provide the Secretary any information with respect to any health care provider or entity against whom a formal proceeding is undertaken by the State licensing authority. The Secretary would be required to collect and maintain a central information system on all such proceedings and would be permitted to release the information to any State agency if it would be useful for the State in determining the fitness of an individual to provide health care services.

The bill would increase the State's share of civil monetary penalty recoveries.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Individuals and organizations interested in presenting oral testimony before the Subcommittees must submit their requests to be heard by telephone to Harriett Lawler [(202) 225–3627] no later than Friday, September 14, 1984, to be followed by a formal written request to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. Notification to those scheduled to appear will be made by telephone as soon as possible after the filing deadline.

In view of the limited time available to hear witnesses, the Subcommittees may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance will be encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

It is urged that persons and organizations having a common position make every effort to designate one spokesman to represent them in order for the Subcommittees to hear as many points of view as possible. Time for oral presentations will be strictly limited with the understanding that a more detailed statement may be included in the printed record of the hearing. This process will afford more time for members to question witnesses. In addition, witnesses may be grouped into panels with strict time limitations for each panelist.

In order to assure the most productive use of the limited amount of time available to question witnesses, witnesses scheduled to appear before the Subcommittees are required to submit 100 copies of their prepared statements to the Ways and Means Committee Office, Room 1102 Longworth House Office Building, at least 24 hours in advance of their scheduled appearances.

Each statement to be presented to the Subcommittees or any written statement submitted for the record must contain the following information:

1. The name, full address, and capacity in which the witness will appear (as well as a telephone number where the witness or a designated representative may be reached);

2. A list of any clients or persons, or any organization for whom the witness appears; and

3. A topical outline or summary of comments and recommendations.

For those who wish to file a written statement for the printed record of the hearing, six copies are required and may be submitted by the close of business Friday, October 5, 1984, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515. An additional supply of statements for the printed record may be furnished for distribution to the press and public if supplied to the Ways and Means Committee office before the hearing begins.

I

98TH CONGRESS
2D SESSION

H. R. 5989

To amend the Social Security Act to protect beneficiaries under health care programs of that Act from unfit health care practitioners, and to otherwise improve the antifraud provisions of that Act.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1984

Mr. MOORE (for himself, Mr. WAXMAN, Mr. RANGEL, Mr. MADIGAN, Mr. PEPPER, and Mr. GEPHARDT) introduced the following bill; which was referred jointly to the Committees on Ways and Means and Energy and Commerce

---

A BILL

To amend the Social Security Act to protect beneficiaries under health care programs of that Act from unfit health care practitioners, and to otherwise improve the antifraud provisions of that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Medicare and Medicaid Patient and Program Protection Act of 1984".

ADMINISTRATIVE SANCTIONS

SEC. 2. (a) Section 1128 of the Social Security Act, including the heading thereof, is amended to read as follows:

"EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM HEALTH CARE PROGRAMS

"SEC. 1128. (a) The Secretary shall exclude from participation in the programs under title XVIII, and shall direct State agencies to exclude from participation in the State health care programs described in subsection (d), for a period of not less than five years, in accordance with the provisions of this section, any individual or entity that has been convicted of a criminal offense related to such individual's or entity's participation in the delivery of items or services under title XVIII or any such State health care program.

"(b) The Secretary may exclude from participation in the programs under title XVIII, and may direct State agencies to exclude from participation in the State health care programs described in subsection (d), in accordance with the provisions of this section—

"(1) any individual or entity that has been convicted, under Federal or State law, in connection with the delivery of health care items or services or with respect to any act or omission in a program operated by or financed in whole or in part by any Federal, State, or local government agency, of—

"(A) fraud, theft, embezzlement, breach of fiduciary responsibility, or any other offense related to financial abuse, or

"(B) neglect or abuse of patients;

"(2) any individual or entity that has been convicted, under Federal or State law, of unlawful manufacture, distribution, prescription, or dispensing of a controlled substance, or other similar offense;

"(3) any individual who—

"(A) has had his license to provide health care revoked or suspended by a State licensing authority, or

"(B) surrendered his license to provide health care while a formal proceeding involving such individual was pending before such State licensing authority (but subject to subsection (c)(5)); or

"(C) left the State, or ceased practicing in the State, while a formal proceeding involving such individual was pending before such State licensing authority (but subject to subsection (c)(5));

"(4) any individual who has been suspended or barred from participation, or otherwise sanctioned, under any Federal program involving the provision of health care, including programs of the Department of Defense or the Veterans' Administration, or under a State medicaid program under title XIX;

"(5) any individual or entity that the Secretary determines—

"(A) has knowingly and willfully made, or caused to be made, any false statement or representation of a material fact for use in an application for payment under title XVIII or a State health care program described in subsection (d) or for use in determining the right to a payment under title XVIII or a State health care program described in subsection (d), or

"(B) has submitted or caused to be submitted bills or requests for payment under title XVIII or a State health care program described in subsection (d) containing charges (or in applicable cases requests for payment of costs) for services rendered substantially in excess of such individual's or entity's customary charges (or, in applicable cases, substantially in excess of such individual's or entity's costs) for such services, unless the Secretary finds there is good cause for such bills or requests containing such charges or costs, or

"(C) has furnished items or services to patients (whether or not eligible for benefits under title XVIII or a State health care program described in subsection (d)) substantially in excess of the needs of such patients or of a quality which

fails to meet professionally recognized standards of health care;

"(6) any individual or entity that the Secretary determines has committed an act punishable under section 1128B;

"(7) any entity, whenever the Secretary determines that any person with an ownership or control interest (as defined in section 1124(a)(3)) in that entity or a managing employee (as defined in section 1126(b)) of that entity is a person—

"(A) who has been convicted of any offense described in subsection (a), or in paragraph (1) or (2) of this subsection, or

"(B) against whom a civil monetary penalty has been assessed under section 1128A, or

"(C) to whom payment has been denied pursuant to this section (or pursuant to section 1862(d) as in effect before October 1, 1984);

"(8) any entity that did not fully and accurately make any disclosure required of it by section 1124 or 1126;

"(9) any individual or entity that fails to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to such individual or entity by the Secretary or by a

State agency administering a State health care program described in subsection (d)—

"(A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such individual or entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and

"(B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such individual or entity and any wholly owned supplier or between such individual or entity and any subcontractor, or

"(10) any individual or entity that fails to provide such information as the Secretary finds necessary to determine whether payments are or were due under title XVIII or a State health care program described in subsection (d) and the amounts thereof, or has refused to permit such examination of its fiscal and other records by or on behalf of the Secretary as may be necessary to verify such information; or

"(11) any entity that fails to grant immediate access, upon reasonable request (as defined by the Secretary in regulations)—

"(A) to the agency used by the Secretary for the purpose specified in the first sentence of section 1864(a), or

"(B) to the agency used by the Secretary or the State agency to perform the reviews and surveys required under paragraphs (26), (31), and (33) of section 1902(a), and under section 1903(g), or

"(C) to the Inspector General for the purpose of review of records, documents, and other data necessary to the Inspector General in the performance of his statutory functions.

"(c)(1) An exclusion under this section shall be effective at such time and upon such reasonable notice to the public and to the individual or entity furnishing the items or services involved as may be specified in regulations. In the case of a refusal by the Secretary to renew an agreement under section 1866, or a termination of approval of a provider or supplier under title XVIII, or a requirement by the Secretary that a State agency terminate or refuse to renew an agreement with an individual or entity to provide items or services under a State health care program described in subsection (d), such

exclusion shall be effective with respect to services furnished to an individual on or after the effective date of such exclusion (except that payment may be made under title XVIII or XIX for up to thirty days for—

"(A) inpatient institutional services furnished to an individual who was admitted to such institution prior to the effective date of such exclusion, and

"(B) home health services or hospice care furnished to an individual under a plan established before the effective date of such exclusion.

The notice of the exclusion shall state the earliest date on which the individual or entity may apply to the Secretary for reinstatement in the program under title XVIII or the State health care program described in subsection (d).

"(2) Any individual or entity that is excluded from participation in a program under title XVIII or a State health care program described in subsection (d) under the preceding provisions of this section shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

"(3)(A) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of a State health care program described in subsection

(d) of the fact and circumstances of each exclusion under the preceding provisions of this section, and (if applicable) of the period for which the State agency shall exclude the individual or entity from participation in such State program (which, in the case of an individual or entity otherwise eligible to participate in a program under title XVIII and a State health care program described in subsection (d), shall be the same period for both programs). The Secretary may waive the requirement to exclude an individual or entity from participation in a State health care program if he receives and approves a request for such a waiver with respect to that individual or entity from the State agency.

"(B) The Secretary shall promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such individual or entity of the fact and circumstances of such exclusion, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary fully and currently informed with respect to any actions taken in response to such request.

"(4) The Secretary shall grant an application for reinstatement as a participant in the programs under title XVIII and the State health care programs described in subsection (d) after exclusion under this section if he determines, at the

end of the period of exclusion, that no basis exists for continuation of the exclusion. In making a determination with respect to reinstatement under this paragraph, the Secretary shall consider only—

"(A) conduct of the applicant which occurred after the date of the notice of exclusion, and

"(B) conduct of the applicant which was unknown to the Secretary at the time of the exclusion.

"(5) In the case of an individual who surrendered his license or left the State or ceased practicing in the State (as described in subsection (b)(3)(B) or (C)), the surrender of the license, leaving of the State, or cessation of practice shall constitute a rebuttable presumption that all allegations in the pending formal proceeding are true. Such individual may present evidence to the Secretary to rebutt such presumption.

"(d) For purposes of this section, the term 'State health care program' means a State plan approved under title XIX, any program or service provided under the maternal and child health services block grant under title V, and any program or service provided under the social services block grant under title XX.".

INFORMATION WITH RESPECT TO HEALTH CARE PRACTITIONERS AGAINST WHOM PROCEEDINGS ARE COMMENCED BY A STATE LICENSING AUTHORITY

SEC. 3. (a) Section 1902(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (43);

(2) by striking out the period at the end of paragraph (44) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (44) the following new paragraph:

"(45) provide that the State will supply to the Secretary information with respect to any health care practitioner or entity against whom a formal proceeding is undertaken by a State licensing authority, and will protect information supplied to the State agency by the Secretary, in accordance with section 1128C.".

(b) Title XI of such Act is amended by inserting after section 1128B (as redesignated by section 4) the following new section:

"INFORMATION WITH RESPECT TO HEALTH CARE PRACTITIONERS AGAINST WHOM PROCEEDINGS ARE COMMENCED BY A STATE LICENSING AUTHORITY

"SEC. 1128C. (a)(1) Each State having a plan approved under title XIX shall have in effect a system of reporting under which the State agency administering such plan reports in a timely manner to the Secretary the following:

"(A) Any formal proceeding (as defined by the Secretary in regulations) commenced against a health care practitioner or entity by any State licensing authority of such State (or a political subdivision thereof),

including the name and address of such practitioner or entity and the nature of the formal proceeding brought, and the accusations made, against such practitioner or entity.

"(B) Any actions taken by such licensing authority as a result of such proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or other adverse action.

"(C) Any dismissal of the proceedings or exoneration of the accused practitioner or entity, including any dismissal of, or inability to complete, the proceedings by reason of the practitioner or entity surrendering the license or leaving the State.

"(D) Any other loss of the license of a health care practitioner or entity, by operation of law, voluntary surrender, or otherwise.

"(2) Information required to be provided under paragraph (1) shall be supplied only after the State has made a preliminary finding, based upon evaluation by appropriate parties designated by the State, that there is reason to believe that the health care practitioner or entity has engaged in any activity which could result in an exclusion from participation in the State plan by reason of section 1128, and

after the practitioner or entity has been afforded an opportunity to rebut such finding.

"(b)(1) The Secretary shall collect the information supplied pursuant to subsection (a) and shall maintain a central information system on all such proceedings. Upon request from any State agency administering a State plan approved under title XIX, the Secretary may release any information contained in such information system to such State agency if such information is useful for such State in determining the fitness of an individual to provide health care services, in protecting the health and safety of individuals receiving medical assistance under such State plan, or in protecting the fiscal integrity of such State plan (as determined by the Secretary).

"(2) The Secretary shall require that any information released to a State under paragraph (1) shall remain confidential, and that the State provide assurances that the information shall be used only to the extent authorized by regulations of the Secretary for the protection of health and safety of patients under the State plan. The Secretary shall notify each State to which information is released as to the State which supplied the information, and the State to which the information was released may contact directly the State which supplied the information to ascertain whether any part

of such information is in the public domain or is otherwise releasable to the public.".

CRIMINAL PENALTIES FOR ACTS INVOLVING HEALTH CARE PROGRAMS

SEC. 4. (a) Section 1909 of the Social Security Act is relocated in title XI, redesignated as section 1128B, and amended as follows:

(1) in the heading, by striking out "PENALTIES" and inserting in lieu thereof "CRIMINAL PENALTIES FOR ACTS INVOLVING HEALTH CARE PROGRAMS";

(2) in subsection (a)(1), by striking out "a State plan approved under this title" and inserting in lieu thereof "a health care program described in subsection (f)";

(3) in subsection (a), in the matter following paragraph (4), by striking out "this title" the first place it appears and inserting in lieu thereof "a health care program described in subsection (f)";

(4) in the last sentence of subsection (a), by striking out "this title" the first place it appears and inserting in lieu thereof "title XIX", and by striking out "this title" the second place it appears and inserting in lieu thereof "that title";

(5) in paragraphs (1)(A), (1)(B), (2)(A), (2)(B), and (3)(A) of subsection (b), by striking out "this title" and

inserting in lieu thereof "a health care program described in subsection (f)";

(6) in subsection (c), by striking out "or home health agency" and inserting in lieu thereof "home health agency, or other provider or health care entity";

(7) in subsection (c), by striking out "this title" and inserting in lieu thereof "a health care program described in subsection (f)"; and

(8) in subsection (d), by striking out "this title" each place it appears and inserting in lieu thereof in each instance "title XIX".

(b)(1) Section 1877(d) of such Act is relocated and redesignated as section 1128B(e).

(2) The remainder of section 1877 of such Act, including the heading thereof, is repealed.

(c) Section 1128B of such Act is further amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section the term 'health care program' means a program established under title XVIII, a State plan approved under title XIX, any program or service provided under the maternal and child health services block grant under title V, and any health-related program or service provided under the social services block grant under title XX.".

CIVIL MONETARY PENALTIES

SEC. 5. (a) Section 1128A(a) of the Social Security Act is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking out "determines is for a medical or other item or service—" and inserting in lieu thereof "determines—",

(2) in paragraph (1), by amending subparagraph (A) to read as follows:

"(A) that the person knows or has reason to know is false or fraudulent, or is for a medical or other item or service that was not provided as claimed, or", and

(3) in paragraph (1)(B), by striking out "section 1128" and all that follows and inserting in lieu thereof "this section or sections 1128, 1156, 1160(b) (as in effect on September 2, 1982), 1862(d) (as in effect on September 30, 1984), or 1866(b), or".

(b)(1) Section 1128A(a) of such Act is further amended by adding at the end thereof the following new sentences: "In addition, the Secretary may exclude the person from participation in the programs under title XVIII, and may require each appropriate State agency to exclude the person from participation in the State health care programs (as defined in section 1128(d)) for such period as he shall specify, which in the case of a person participating in such State

health care programs shall be the period during which the individual is excluded from participation in the programs under title XVIII. In the case of claims filed before August 13, 1981, no civil penalty or damages assessment shall be imposed that could not have been imposed under the False Claims Act.".

(2) Section 1128A(b)(1) of such Act is amended by adding at the end thereof the following new sentences: "The Secretary may not initiate an action under this section with respect to any claim later than six years after the claim was presented. The Secretary may initiate action under this section by mailing by registered or certified mail the notice required by paragraph (2).".

(3) Section 1128A of such Act is amended in subsections (c), (f), and (g) by striking out "penalty or assessment" each place it appears and inserting in lieu thereof in each instance "penalty, assessment, or exclusion".

(4) Section 1128A(g) of such Act is amended by striking out "and the appropriate Professional Standards Review Organization" and inserting in lieu thereof "the appropriate State agency or agencies administering or supervising the administration of the State health care programs described in section 1128(d), the appropriate utilization and quality control peer review organization".

(5) Section 504(b) of such Act is amended—

(A) by striking out "or" at the end of paragraph (4),

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and

(C) by adding at the end thereof the following new paragraph:

"(6) payment for any item or service furnished by a person excluded from participation in the program under this title in accordance with section 1128 or 1128A.".

(c) Section 1128A(e)(1)(A) of such Act is amended by striking out all that follows "there shall be paid to the State agency" and inserting in lieu thereof "an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.".

(d) Section 1128A of such Act is amended by adding at the end thereof the following new subsections:

"(i) The provisions of section 205 (d) and (e) shall apply with respect to this section to the same extent as they are applicable with respect to title II.

"(j) Where the Secretary, in accordance with this section, excludes a person from participation in the program under title XVIII or requires a State agency to exclude a person from participation in a State health care program de-

scribed in section 1128(d), the notice of exclusion shall state the earliest date on which the person may apply to the Secretary for reinstatement in that program. The Secretary shall grant an application for reinstatement if he determines, at the end of the period of exclusion, that no basis exists for continuation of the exclusion. In making a determination with respect to reinstatement under this paragraph, the Secretary shall consider only—

"(1) conduct of the applicant which occurred after the date of the notice of exclusion, and

"(2) conduct of the applicant which was unknown to the Secretary at the time of the exclusion.

"(k) Whenever it shall appear to the Secretary that any person is engaged or about to engage in any activity which constitutes a violation which is subject to a civil monetary penalty under this section, the Secretary may bring an action in any district court of the United States (or United States court of any Territory) to enjoin such activity, or to enjoin such person from concealing or removing assets which may be required in order to pay a civil monetary penalty if any such penalty is imposed. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted.".

OBLIGATION OF HEALTH CARE PRACTITIONERS AND PROVIDERS

SEC. 6. Section 1156 of the Social Security Act is amended—

(1) in subsection (a), by striking out "title XVIII" and inserting in lieu thereof "this Act";

(2) in subsection (a), by striking out "such title" and inserting in lieu thereof "this Act"; and

(3) in subsection (b)(1), by striking out "title XVIII" and inserting in lieu thereof "this Act".

DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION TO MANUFACTURE, DISTRIBUTE, OR DISPENSE A CONTROLLED SUBSTANCE

SEC. 7. (a) Section 304(a) of the Controlled Substances Act (21 U.S.C. 824(a)) is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) has been excluded from participation in the medicare program under title XVIII of the Social Security Act pursuant to section 1128 of that Act.".

(b) Section 304(b) of such Act (21 U.S.C. 824(b)) is amended by adding at the end thereof the following new sen-

tence: "In the case of a revocation or suspension made pursuant to subsection (a)(4), the Attorney General shall impose such revocation or suspension for at least the same period of time as the exclusion from medicare participation is imposed under section 1128 of the Social Security Act.".

CONFORMING CHANGES IN SOCIAL SECURITY ACT

SEC. 8. (a)(1) Section 1126(a) of such Act is amended in the first sentence by striking out "or other institution" and all that follows and inserting in lieu thereof the following: "or other entity (other than an individual practitioner or group of practitioners) shall be required to disclose to the Secretary or to the appropriate State agency the name of any person who has an ownership or control interest (as defined in section 1124(a)(3)) in such entity, or is a managing employee (as defined in subsection (b)) of such entity, and who is a person described in section 1128(b)(5).".

(2) Section 1126(a) of such Act is amended in the second sentence—

(A) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services", and

(B) by striking out "institution, organization, or agency" and inserting in lieu thereof "entity".

(3) Section 1126(b) of such Act is amended by striking out "institution, organization, or agency" each place it appears and inserting in lieu thereof in each instance "entity".

(b) Section 1862(d) of such Act is repealed.

(c) Section 1862(e) of such Act is amended to read as follows:

"(e) No payment may be made under this title with respect to any item or service—

"(1) furnished by an individual or entity during the period when such individual or entity is excluded pursuant to section 1128 or 1128A from participation in the programs under this title; and

"(2) (other than an emergency item or service) furnished at the direction or on the prescription of a physician during the period when he is excluded pursuant to section 1128 or 1128A from participation in the programs under this title;".

(d)(1) Section 1866(a)(3) of such Act is repealed.

(2) Section 1866(b) of such Act is amended to read as follows:

"(b)(1) A provider of services may terminate an agreement with the Secretary under this section at such time and upon such notice to the Secretary and the public as may be provided in regulations, except that notice of more than 6 months shall not be required.

"(2) The Secretary may refuse to enter into or to renew an agreement under this section, and (upon such reasonable notice to the provider and the public as may be specified in

regulations) may terminate an agreement under this section, after the Secretary has determined—

"(A) that the provider fails to comply substantially with the provisions of such agreement, or with the provisions of this title and regulations thereunder, or

"(B) that the provider fails substantially to meet the applicable provisions of section 1861, or

"(C) pursuant to section 1128 or 1128A that the provider of services should be excluded from participation in the program under this title.

"(3)(A) Except as provided in paragraph (4), a termination of an agreement under this subsection shall be applicable with respect to items or services furnished on or after the effective date of such termination, but payment may be made for up to thirty days after the effective date of such termination for—

"(i) inpatient institutional services furnished to an individual who was admitted to such institution prior to the effective date of such termination, and

"(ii) home health services or hospice care furnished to an individual under a plan therefor established before the effective date of such termination.

"(4)(A) Where the Secretary determines that a provider of services no longer complies substantially with the provi-

sions of its agreement under subsection (a)(1), or with the provisions of this title and regulations thereunder, or with the applicable provisions of section 1861, and further determines that the provider's deficiencies do not immediately jeopardize the health and safety of its patients, the Secretary may, in lieu of terminating immediately the agreement under this section, notify the provider of the deficiencies that form the basis of the determination, and of the date by which the deficiencies must be corrected, which date may not be later than 6 months (or in the case of a skilled nursing facility one year) after the date of the notice to the provider.

"(B) During the period established by the notice under subparagraph (A), payment under this title may be made—

"(i) in the case of inpatient services, only for services provided to an individual admitted to the institution before the date of the notice, and

"(ii) in the case of all other services, only for services which were scheduled to be provided (as defined by the Secretary in regulations) before the effective date of the notice.

"(C) If the Secretary determines that the deficiencies specified in the notice have not been corrected by the deadline stated in the notice, the Secretary shall terminate the agreement under this section, effective with respect to all

items and services, as of the date by which the deficiencies were required to be corrected.

"(D) The Secretary shall not make a determination under this paragraph with respect to a provider of services until he has given the provider a reasonable opportunity to correct its deficiencies, following the initial determination that it no longer substantially meets the provisions of the agreement, or of this title and regulations thereunder, or the applicable provisions of section 1861, and following this period, has given reasonable notice to the public and given the provider reasonable notice and opportunity for a hearing.

"(E) The Secretary shall promptly notify each appropriate State agency which administers or supervises the administration of a State health care program described in section 1128(d) of a determination under this subparagraph with respect to any provider of services, and may require such State agency to make payment under such program to the provider only as provided in subparagraph (B).".

(e)(1) Section 1866(f) of such Act is amended to read as follows:

"(f) Any entity dissatisfied with a determination by the Secretary that it is not a provider of services, or with any determination described in subsection (b)(2) or (3)(B), shall be entitled to a hearing thereon by the Secretary (after reasonable notice and opportunity for hearing) to the same extent as

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is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g), except that an entity shall not be entitled to separate notice and opportunity for hearing under both section 1128 and this section with respect to a determination or determinations based on the same underlying issues.".

(2) Section 1869(c) of such Act is repealed.

(f) Title XVIII of such Act is amended by adding at the end thereof the following new section:

"CONDITIONAL APPROVAL OF PROVIDERS AND OTHER SUPPLIERS OF SERVICES

"SEC. 1888. (a) In any case where—

"(1) an individual or entity must obtain, as a condition of participation in the programs under this title or as a condition of coverage under this title of items and services furnished by such individual or entity, certification that it meets the statutory conditions imposed under this title and the additional conditions found necessary by the Secretary, and

"(2) the Secretary finds that such individual or entity is not in substantial compliance with such conditions, and also finds that the individual's or entity's deficiencies do not immediately jeopardize the health and safety of patients,

the Secretary may, in lieu of terminating approval of the individual or entity, notify the individual or entity of the deficien-

cies that form the basis of the determination, and of the date by which the deficiencies must be corrected, which date may not be later than 6 months after the date of the notice to the individual or entity.

"(b) During the period established by the notice under subsection (a), payment under this title may be made—

"(1) in the case of inpatient services, only for services provided to an individual admitted to the institution before the date of the notice, and

"(2) in the case of all other services, only for services which were scheduled to be provided (as defined by the Secretary in regulations) before the effective date of the notice.

"(c) If the Secretary determines that the deficiencies specified in the notice have not been corrected by the deadline stated in the notice, the Secretary shall terminate approval of the individual or entity, effective with respect to all items and services, as of the date by which the deficiencies were required to be corrected.

"(d) The Secretary shall not make a determination under this section with respect to any individual or entity until he has given the individual or entity a reasonable opportunity to correct the deficiencies, following the initial determination that it no longer substantially meets the conditions, and following this period, has given reasonable notice to the

public and given the individual or entity reasonable notice and opportunity for a hearing.

"(e) The Secretary shall promptly notify each appropriate State agency which administers or supervises the administration of a State health care program described in section 1128(d) of a determination under this section with respect to any individual or entity and may require such State agency to make payment under such program to the individual or entity only as provided in subsection (b).".

(g) Section 1902(a)(38) of such Act is amended by striking out all that follows "respectively," and inserting in lieu thereof "the information described in section 1128(b)(7)".

(h) Section 1902(a)(39) of such Act is amended—

(1) by striking out "bar" and inserting in lieu thereof "exclude",

(2) by striking out "person" each place it appears and inserting in lieu thereof in each instance "individual or entity", and

(3) by inserting "or 1128A" after "section 1128".

(i) Paragraphs (1) and (2) of section 1903(i) of such Act are amended to read as follows:

"(1) with respect to any amount expended for items or services furnished under the plan by any individual or entity during the period when such individual or entity is excluded pursuant to section 1128 or

1128A from participation in the program under this title; or

"(2) with respect to any amount paid for an item or service (other than an emergency item or service) furnished at the direction or on the prescription of a physician, during the period when such physician is excluded pursuant to section 1128 or 1128A from participation in the program under this title;".

(j) Section 1903(i) of such Act is further amended by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(7) with respect to any amount paid under the State plan to any individual or entity that has failed to furnish to the Secretary, upon request, information required to be furnished pursuant to this title or title XI or XVIII, unless the Secretary finds that there is good cause for such failure.".

(k)(1) Section 1902 of such Act is amended by inserting after subsection (f) the following new subsection:

"(g) The State agency, for good cause (including any reason for which the Secretary could exclude such individual or entity from participation in the programs under this title or title XVIII pursuant to section 1128, 1128A, or 1866(b)), may refuse to enter into or may terminate any agreement

with an individual or entity for purposes of participation under the State plan, and may refuse otherwise to approve or may terminate approval of an individual or entity for such purposes.".

(2) Section 1903(n) of such Act is repealed.

(l) The amendments made by this section shall become effective on October 1, 1984.

EFFECTIVE DATE

SEC. 9. The provisions of this Act and the amendments made by this Act shall become effective on October 1, 1984.

○

Chairman WAXMAN. The meeting of the joint Subcommittees on Health of the Ways and Means Committee and Energy and Commerce Committee will please come to order.

Today, the Subcommittee on Health and the Environment, in conjunction with the Subcommittee on Health of the Committee on Ways and Means, is meeting to hear testimony on an important bill, the Medicare and Medicaid Patient and Program Protection Act of 1984.

This bill would consolidate the various existing fraud and abuse provisions in the Medicare and Medicaid Programs and would fill in some gaps in the existing provisions. The major addition to current law would be to give the Secretary of Health and Human Services new authority under which practitioners who have forfeited their State licensure could be barred nationwide from furnishing services to Medicare and Medicaid beneficiaries.

This bill represents an attempt to make sure that our health care dollars are spent prudently and that the health care furnished to beneficiaries of these Federal programs meets acceptable standards of quality. Thus, it is consistent with other recent legislative initiatives designed to meet those objectives. It is a bipartisan issue and a bipartisan proposal, as evidenced by the strong support it received from members of both parties in both subcommittees.

We have an impressive group of witnesses today to discuss this legislation and help us determine whether any refinements are warranted. I hope that the bill will receive strong support from our colleagues.

I would like to now, at this time, recognize and call upon the very distinguished ranking minority member of the Subcommittee on Health of Ways and Means, the lead author of this legislation, Mr. Moore.

Mr. MOORE. Mr. Chairman, thank you.

First of all, I want to express my thanks to both Chairman Jacobs and Chairman Waxman for providing this timely hearing on H.R. 5989, the Medicare and Medicaid Patient and Program Protection Act of 1984.

The measure addresses concerns raised by the General Accounting Office and the Inspector General of HHS, regarding the protection of Social Security Act Health Care Program beneficiaries from unfit health practitioners. It also addresses the need to improve the antifraud and abuse provisions of the act.

H.R. 5989 incorporates fully the legislative recommendations of the General Accounting Office and the Inspector General.

I am pleased to have sponsored H.R. 5989 along with my distinguished House colleagues, Congressmen Waxman, Rangel, Madigan, Pepper, and Gephardt.

I also commend the efforts of the distinguished Senator from Pennsylvania, John Heinz, chairman of the Special Committee on Aging in the other body, and other distinguished members of that committee: Senators Glenn, Chiles, Wilson, Domenici, Percy, and Burdick, for introducing identical legislation, S. 2744, and calling for prompt legislative action.

It is a tribute to the concern of both the Ways and Means Subcommittee on Health, and the Energy and Commerce Subcommit-

tee on Health and Environment that we are here today in this joint hearing.

In so doing, we should be able to expedite consideration of this important beneficiary protection measure which cuts across the jurisdictional responsibilities of our subcommittees.

The legislation is relatively noncontroversial, I believe, and I would hope that we can move quickly in the House and send legislation to the other body so that final action can be taken before the October adjournment.

I look forward to the testimony to be presented this afternoon and to suggestions on ways to improve the proposal.

Thank you, Mr. Chairman.

Mr. WYDEN. I wish to commend my colleagues for a first-rate job in preparing this legislation. It is fair to say that all of us understand the benefits of a mobile society, but our present situation is just ridiculous.

What we are faced with is a kind of bureaucratic musical chairs, where an individual is found incompetent or unacceptable in a particular State and somehow shakes that finding and practices in another State. And clearly, that is unacceptable, and is not in the interests of patients, certainly.

And I want to commend my colleagues for their efforts to turn this situation around, particularly the gentleman from Pennsylvania, with whom I have worked so many times, Senator Heinz, and I look forward to their testimony in ensuring that this important legislation gets passed into law, and quickly.

Chairman JACOBS. Thank you, Mr. Wyden.

We are privileged to have the Honorable John Heinz, the Senator from Pennsylvania. Please proceed in your own fashion.

STATEMENT OF HON. JOHN HEINZ, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator HEINZ. I appreciate the opportunity to testify before this, my old committee, that is to say, the Energy and Commerce Committee, on which I served for 4 years as a member of the Health and Environment Subcommittee.

I have been replaced, as one may note, by my Congressman, Congressman Walgren, and Congressman Wyden is quite correct, we have had an opportunity to work together on this and other issues, as I have with my good friend Henson Moore.

It was my privilege as chairman of the Committee on Aging to chair hearings conducted by the committee earlier this year which uncovered a very serious defect in our ability to protect our Nation's elderly and poor from treatment by incompetent and dangerous medical practitioners.

As I am sure you will learn today, what shocked us most was the GAO report released at our hearing that showed that hundreds of doctors in three States who had been banned from the practice in one State for criminal acts like fraud, for drug trafficking, for sexual and immoral conduct, gross incompetence, simply packed up their black bags and moved across State lines to set up practice in another State.

One of the doctors in this study, who I call Dr. X, had lost his license in three States for illegal drug sales. Yet, he is currently licensed in my home State of Pennsylvania, and has been issued a Medicare provider number by the Department of Health and Human Services.

The most alarming finding of the report is that Dr. X is not an anomaly. In fact, over one-third of the practitioners in the report held licenses in other States and many continued to treat patients after having been sanctioned.

These doctors are nothing less than unethical, unfit carpetbaggers.

There are 50 million elderly and poor in America who trust in Medicare or Medicaid to finance their health care needs. How can we assure them of quality care when HHS does not have the authority to exclude on a national basis doctors found guilty in one State or by one Federal program of wrongful acts?

The problem is compounded, Mr. Chairman, by the difficulty in tracking these incompetent doctors. If Dr. X had lost his driver's license for drunken driving, his name would have been placed into a national registry, and he would have been denied a driver's license in any other State.

To remedy this problem, I introduced legislation to close existing loopholes and thereby increase the ability of the Inspector General of DHHS to protect Medicare and Medicaid beneficiaries.

Our bill, S. 2744, which you are considering today as H.R. 5989, in virtually identical form, would provide the Secretary with wider enforcement authority in several key areas.

Mr. Chairman, I believe the addition of these authorities constitutes an important step toward responsible administration of our health care programs, and I commend you and your colleagues for taking swift action on this important bill.

I would like to add at this juncture, Mr. Chairman, that during our May 1 hearing, we heard a clear consensus of opinion from all parties involved, something we don't always get in Washington, including the General Accounting Office, the Inspector General of DHHS, and even the American Medical Association, that the problem is real and that our solution is the right approach.

I think such unanimity of opinion speaks forcefully in support of this much-needed reform package. Our constituents who are enrolled in Medicare and Medicaid deserve nothing less than prompt action on this legislation in this session.

We received very good testimony that we had not considered previously in drafting our bill, that the authority to revoke the Drug Enforcement Administration number, the number which is given to enable a practitioner to prescribe medicines, should also be made revokable at the request of the Secretary of Health and Human Services.

The reason this is a most significant sanction, Mr. Chairman, is that a very large number of these people will continue to operate as doctors, even if they do not actually have a license to practice.

The one thing that will give them some legitimacy is their ability to write out a prescription and give it to somebody, and indeed, somewhere between 23, which is the GAO number, and 44 percent, which is Dr. Derbyshire's number, somewhere in there, that per-

cent, indeed, are being sanctioned today, because they are writing out phony prescriptions and selling those prescriptions.

They will write out a prescription for 100 or 200 or 500 Quaaludes and sell that prescription because of the retail street value to the drug trafficker who will buy the prescriptions from the doctor.

So I urge you in your markup to add that authority as well. I have discussed it with Mr. Kusserow, who will be testifying. He believes that that is an authority, so long as it is discretionary, that the HHS would like to have.

So with that comment, Mr. Chairman, I commend you on what you are doing, and I would be happy to answer any questions.

[The prepared statement follows:]

STATEMENT OF HON. JOHN HEINZ, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, on May 1st of this year, in a hearing before the Senate Special Committee on Aging, which I chair, it came to my attention that we have a serious defect in the Government's ability to protect our Nation's elderly and poor from treatment by incompetent and dangerous medical practitioners.

A General Accounting Office released at that hearing showed that doctors who had been banned from practice in one State for criminal acts like fraud, for drug trafficking, for sexual or immoral conduct, and for gross incompetence, simply packed up their black bags and moved across State lines to set up practice in another State. In its three State sample of Michigan, Ohio, and my home State of Pennsylvania, GAO identified 328 doctors, osteopaths, dentists, chiropractors, podiatrists, and pharmacists who had their licenses suspended or revoked for a year or more. One of the doctors in the study, who I'll call Dr. X, had lost his license in three States for illegal drug sales—yet is currently licensed in Pennsylvania and has been issued a Medicare provider number there.

The most alarming finding of the report is that Dr. X is not an anomaly—in fact, over one third of the practitioners in the report held licenses in other States and many continued to treat patients after having been sanctioned.

There are 50 million elderly and poor in America who trust in Medicare or Medicaid to finance their health care needs. How can we assure them of quality care when HHS does not have the authority to exclude on a national basis doctors found guilty in one State or by one Federal program of wrongful acts?

The problem is compounded Mr. Chairman, by the difficulty in tracking these incompetent doctors. If Dr. X had lost his driver's license for drunken driving, his name would have been placed into a national registry, and he would have been denied a driver's license in every other State.

To remedy this problem, I introduced legislation with Senator Glenn and others, to close existing loopholes and thereby increase the ability of the Inspector General of DHHS to protect Medicare and Medicaid beneficiaries. Our bill, S. 2744, which you are considering today as H.R. 5989, would provide the Secretary with wider enforcement authority in several key areas. Mr. Chairman, I believe the addition of these authorities constitutes an important step toward responsible administration of our health care programs and I commend you and your colleagues for taking swift action on this important bill. I would like to add at this juncture, Mr. Chairman, that during our May 1st hearing, we heard a clear consensus of opinion from all parties involved—including the GAO, the IG, and even the AMA—that the problem is real and that our solution is the right approach. I think such unanimity of opinion speaks forcefully in support of this much needed reform package. Our poor and aged constituents deserve nothing less than prompt action on our legislation in this session.

I would be happy to answer any questions from the distinguished members of the panel.

Chairman JACOBS. Thank you for your testimony.

Mr. WYDEN. What is the administration's position, Senator?

Senator HEINZ. The administration position on your bill, and our bill, is in support.

Mr. WYDEN. Thank you, Mr. Chairman.

Chairman JACOBS. You are right.

Senator HEINZ. If there is any change, I am sure you will hear it from Mr. Kusserow, but I don't think there is.

Chairman JACOBS. Mr. Walgren?

Mr. WALGREN. As the person who succeeded to the territory that Senator Heinz used to represent in the House of Representatives, I want to add my respect for the work you have done in the Senate on this bill, and it looks like a very good vehicle, and it is moving with broad consensus.

I wanted to take the opportunity to raise just a fear, and maybe you might respond in some way, but the fact that there are doctors that would be able to go into medicaid-medicare practices in other States after they have lost a license in one State implies, in a sense, that there is a great demand for medicare and medicaid practicing doctors.

And I just want to flag at any chance I get the apprehension I have of a two-track medical system. As we move into putting very specific cost restraints on medicare and medicaid, that two-track tier certainly seems to gather in its strength.

Although we might cut these physicians off with the passage of this bill, ultimately the fact that they are in such demand indicates there are some other problems with the medicare-medicaid system that we ought to be careful about.

Senator HEINZ. Congressman Walgren, you may be correct that they are in demand. I don't honestly know one way or the other, although I would hazard a guess that they also probably seek those people on medicare and medicaid who are less able to discern whether or not they are competent physicians.

I suspect that they prey on the least powerful and most unsuspecting and therefore, the most innocent who can often be the poorer, the older people in our society.

Mr. WYDEN. Senator, my impression is that they are in demand, these providers, simply because they appear to be certified, they appear to have the image of professional qualifications, and to be individuals who are skilled and professional, and it is that appearance that creates the demand.

Senator HEINZ. Indeed, they often have extraordinary résumés, such as the doctor who is now practicing in Nevada who claimed his medical degree came from the University of Saigon, Montpelier Campus. When they found out there wasn't any such campus, he changed his story and transformed his alma mater into the University of Hanoi.

These are impressive-looking résumés. You can add a State, or you can add another university, and no one is going to be the wiser.

Chairman JACOBS. Our next panel consists of Richard P. Kusserow, IG of the U.S. Department of Health and Human Services; and Michael Zimmerman, Associate Director, Human Resources Division, U.S. General Accounting Office, accompanied by Thomas G. Dowdal, Group Director, and Donald Warsing, Senior Evaluator, Cleveland Sublocation.

STATEMENT OF MICHAEL ZIMMERMAN, ASSOCIATE DIRECTOR, HUMAN RESOURCES DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY THOMAS G. DOWDAL, GROUP DIRECTOR, AND DONALD WARSING, SENIOR EVALUATOR, CLEVELAND SUBLOCATION

Mr. ZIMMERMAN. Mr. Chairman, my name is Mike Zimmerman, and Tom Dowdal is to my right, our Group Director; and to his right, Mr. Warsing from our Cleveland office who was responsible for the audit work that resulted in the report we are here to discuss today.

I have prepared a statement. It is about 12 pages. Rather than taking the full time to read it, I will summarize it and at that point in time, we would be more than glad to answer any questions you or the other members might have.

Chairman JACOBS. Without objection, and all such statements during the hearing will be admitted into the record.

Please proceed.

Mr. ZIMMERMAN. We are pleased to be here today to discuss the need for expanded Federal exclusion authority for practitioners to help ensure that Medicare and Medicaid patients receive quality care.

Our work showed that Medicare and Medicaid patients are being treated in some States by health practitioners whose licenses were revoked or suspended in other States. These practitioners were able to continue practicing under Medicare and Medicaid because existing Federal exclusion authority does not permit a national exclusion of practitioners who are found by State licensing boards to have failed to meet minimum professional standards.

Accordingly, the Federal Government's assurance that Medicare and Medicaid recipients receive quality care is diminished.

We believe that additional exclusion authority is needed to sanction practitioners nationally from participation in Medicare and Medicaid when they are, one, excluded by any State Medicaid Program; two, excluded by Medicare; three, convicted of crimes such as violations of the controlled substances laws and convictions for defrauding private insurance firms; or, four, sanctioned by any State licensing board.

Mr. Chairman, H.R. 5989 provides for the needed expansion of Federal exclusion authority in the four areas I just mentioned and we support those provisions in the bill.

The first part of my statement will focus on the need for expanded Federal exclusion authority. Next, I will briefly discuss the need to include all exclusions and sanctions in the HHS's planned information system on sanctioned providers and practitioners. Both of these issues are discussed in our report which was issued May 1, 1984.

Licensing of health care professionals is a responsibility of the States, and practitioners can hold licenses in more than one State. Medicare and Medicaid Program administrators are responsible for determining that practitioners are licensed before paying claims for services they provide, normally by contacting the various State licensing boards. When a State licensing board revokes or suspends a practitioner's license, he or she can no longer legally provide

services in that State and the State licensing board makes Medicare and Medicaid aware of this. However, sanctioning action by one State does not automatically result in sanctioning by other States where the same practitioner holds licenses.

In our review of licensing boards' disciplinary actions in Michigan, Ohio, and Pennsylvania, we identified 328 health care practitioners from six professions who had their licenses revoked or suspended for 1 year or more, or surrendered them for disciplinary reasons, during the period January 1, 1977 through December 31, 1982. These sanctions were imposed when the practitioners did not meet minimum professional standards because they had problems, such as alcohol and drug abuse; or committed acts, such as malpractice, sexual offenses, or drug trafficking.

State licensing boards sanction many more practitioners than HHS excludes from participation in Medicare and Medicaid. The boards, which are responsible for assuring that practitioners are qualified to treat patients, can sanction practitioners for their actions related to any patient. However, HHS is responsible only for practitioners' participation in Medicare and Medicaid and can exclude practitioners only for acts committed against these programs and their beneficiaries. Because of these differences, HHS excludes relatively few of those practitioners sanctioned by State boards. For example, only 15 of the 328 practitioners sanctioned by the three States were also excluded by HHS.

There are also differences in the reasons for State sanctions and HSS exclusions, although the reasons for both types of action are serious. Over 70 percent of the HHS exclusion actions were for criminal violations against the programs. However, 58 percent of the 328 licensing board sanctions in the three States were for problems that affected the practitioners' ability to meet minimum professional standards or to provide quality care. Reasons for State sanctions nationwide are similar to those in the three States. For example, 61 percent of the actions reported by the Federation of State Medical Boards during a 5-year period involved problems that affected quality of care as compared to the 58 percent we found in the three States in our review.

The problems that causes physicians to lose their licenses are serious. However, it is important to note that the problems involved only a small percentage of the Nation's physicians. For example, in 1982, only about 1 in every 1,000 physicians lost their licenses for disciplinary reasons.

Of the 328 practitioners sanctioned by the three States we identified, 122 held licenses in at least one other State at the time of the sanction. Having licenses in other States permits sanctioned practitioners to move to another State and continue practicing.

Of these 122 practitioners, 30 corrected their problems, retired or died. The other 92 had to relocate if they wanted to practice. We were able to trace 49 of these practitioners to other States, and found that 39 obtained provider numbers to directly bill the Medicare and Medicaid Programs. The other 10 relocated, but did not obtain a provider number. They could be serving Medicare and Medicaid patients in a hospital, clinic, or other institution where the institution and not the practitioner bills the two programs for

services provided. We could not determine the whereabouts of the other 43.

When practitioners sanctioned by State licensing boards relocate, we believe serious questions arise concerning the quality of care provided by them to Medicare and Medicaid patients because there are no assurances that the problems that led to their sanctioning in one State were corrected before they began treating Medicare and Medicaid patients in other States.

Of the 39 practitioners who moved to other States and enrolled in the Medicare or Medicaid Programs, 28 originally lost their licenses because they committed acts or had problems which, according to the State licensing boards, showed that they did not meet minimum professional standards. The other 11 practitioners were sanctioned by the States for various criminal activities. Only three of these practitioners were excluded by HHS from participation in Medicare and Medicaid. This permitted the others to participate in the two programs in other States and, in some instances, commit the same or similar acts.

State licensing officials said the main reason for allowing practitioners to remain active in their States was that they did not know about disciplinary actions in other States. In cases where they were informed and considered the offenses serious enough to remove the practitioners' licenses, they usually were not informed of the other States' actions in a timely manner. In addition, when States are informed, it takes up to 3 years to sanction practitioners because of the procedures that must be followed.

Under current law, HHS can exclude practitioners from participation in Medicare and/or Medicaid for a number of reasons.

However, we believe that the current practitioner exclusion authority HHS has is insufficient in the following instances:

First, practitioners who lose their right to participate in Medicaid in one State for such reasons as habitual overutilization can continue to practice under Medicare in that State or relocate to another where they hold a license and practice under Medicare and Medicaid.

Second, practitioners who lose their right to participate in Medicare for such reasons as providing inappropriate care can continue to participate in Medicaid in any State where they hold a license.

Third, practitioners who lose their license in one State can relocate to another State where they hold a license and practice under Medicare and Medicaid.

Fourth, practitioners convicted of crimes other than Medicare and Medicaid fraud can continue to practice under Medicare and Medicaid.

The kinds of situations when HHS cannot nationally exclude practitioners discussed above involve serious problems. Practitioners have been found unfit to participate in Medicare or Medicaid in a particular State, or have been found unfit to practice in one State. We believe that to protect all Medicare and Medicaid patients from practitioners found unfit, HHS needs the authority to nationally exclude them from participation in these programs after reviewing the findings that caused action be taken against the practitioners.

Also, if HHS could sanction nationally a practitioner sanctioned by a State licensing board, it would help eliminate the lag in time between action in one State and action in other States where a practitioner holds licenses.

H.R. 5989 would close the gaps in HHS' exclusion authority that we identified in our May 1 report and we support enactment of those provisions.

HHS is establishing an information reporting system which will include public information on practitioners who have been excluded from Federal health care programs and from other public and private health care payment programs that choose to participate in the information system. However, HHS was not planning to include initially in this system practitioners sanctioned by State-licensing boards. We believe that to be effective the system should include public information on all practitioners sanctioned by States because they committed acts or have problems that resulted in State licensing boards determining that these practitioners did not meet minimum professional standards.

We recommended in our May 1 report that the information system include all practitioners sanctioned by State licensing boards.

H.R. 5989 includes provisions that would provide a legal basis to assure that HHS receives from the States the necessary data to implement the provision enabling exclusion of practitioners sanctioned by their State licensing boards.

Mr. Chairman, this concludes my statement. We would be pleased to respond to questions.

[The prepared statement follows:]

STATEMENT OF MICHAEL ZIMMERMAN, ASSOCIATE DIRECTOR, HUMAN RESOURCES DIVISION, U.S. GENERAL ACCOUNTING OFFICE

NEED FOR EXPANDED FEDERAL EXCLUSION AUTHORITY

Mr. Chairman and members of the Committee we are pleased to be here today to discuss the need for expanded federal exclusion authority for practitioners to help ensure that Medicare and Medicaid recipients receive quality care. While reviewing how the Medicare and Medicaid programs operate, we noted that it was possible for medical practitioners—medical doctors, osteopathic doctors, podiatrists, chiropractors, dentists and pharmacists—who held licenses in more than one state, to have one of these licenses suspended or revoked by a state licensing board but relocate and continue to treat Medicare and Medicaid patients.

Our review showed that Medicare and Medicaid patients are in fact being treated in some states by health practitioners whose licenses were revoked or suspended in other states. These practitioners were able to continue practicing under Medicare and Medicaid because existing federal exclusion authority does not permit a national exclusion of practitioners who are found by state licensing boards to have failed to meet minimum professional standards. Accordingly, the federal government's assurance that Medicare and Medicaid recipients receive quality care is diminished.

House bill H.R. 5989 was introduced on June 29, 1984. This bill, if enacted, would expand existing Federal authority to excluded practitioners from participating in the Medicare and Medicaid programs. A similar bill, S. 2744, was introduced in the Senate. We believe that additional exclusion authority is needed in four areas to sanction practitioners nationally from participation in Medicare and Medicaid when they are (1) excluded by any state Medicaid program, (2) excluded by Medicare, (3) convicted of crimes such as violations of the controlled substances laws and convictions for defrauding private insurance firms, or (4) sanctioned by any state licensing board. Mr. Chairmen, H.R. 5989 provides for the needed expansion of federal exclusion authority in the four areas I just mentioned and we support those provisions in the bill.

The first part of my statement will focus on the need for expanded federal exclusion authority. Next, I will briefly discuss the need to include all exclusions and sanctions in the Department of Health and Human Service's (HHS's) planned information system on sanctioned providers and practitioners. Both of these issues are discussed in our report Expanded Federal Authority Needed to Protect Medicare and Medicaid Patients From Health Practitioners Who Lose Their Licenses (GAO/HRD-84-53), which was issued May 1, 1984.

BACKGROUND

Licensing of health care professionals is a responsibility of the states, and practitioners can hold licenses in more than one state. HHS administers Medicare and Medicaid at the Federal level. To participate in these programs a practitioner must hold a valid state license. Medicare and Medicaid administrators are responsible for determining that practitioners are licensed before paying claims for services they provide, normally by contacting the various state licensing boards. When a state licensing board revokes or suspends a practitioner's license, he or she no longer legally provide services in that state and the state licensing board makes Medicare and Medicaid aware of this. However, sanctioning action by one state does not automatically result in sanctioning by other states where the same practitioner holds licenses.

Although the specific procedures vary somewhat from state to state, the sanctioning process generally proceeds as follows. The state licensing board becomes aware of a possible problem with a practitioner. The board conducts an investigation and notifies the practitioner of the findings. The practitioner is informed of potential actions and of his or her right to a hearing. If the board decides to suspend or revoke the practitioner's license, he or she has the right to appeal the decision administratively and/or through the courts.

SANCTIONED PRACTITIONERS MOVE TO OTHER STATES AND TREAT MEDICARE AND MEDICAID PATIENTS

Nationwide relatively few disciplinary actions are imposed by individual states to protect their citizens from being treated by incompetent, unethical, and/or unqualified health care practitioners. In our review of licensing boards' disciplinary actions in Michigan, Ohio, and Pennsylvania we identified 328 health care practitioners from six professions who had their licenses revoked or suspended for 1 year or more, or surrendered them for disciplinary reasons, during the period January 1, 1977, through December 31, 1982. These sanctions were imposed when the practitioners did not meet minimum professional standards because they had problems—such as alcohol and drug abuse—or committed acts—such as malpractice, sexual offenses, or drug trafficking. State licensing boards sanction many more practitioners than HHS excludes from participation in Medicare and Medicaid. The boards, which are responsible for assuring that practitioners are qualified to treat patients, can sanction practitioners for their actions related to any patient. However, HHS is responsible only for practitioners' participation in Medicare and Medicaid and can exclude practitioners only for acts committed against these programs and their beneficiaries. Because of these differences, HHS excludes relatively few of those practitioners sanctioned by state boards. For example, while the licensing boards in Michigan, Ohio, and Pennsylvania sanctioned 328 practitioners in 1977-82, HHS nationwide excluded 335 practitioners from September 1975 through December 1982. Also, only 15 of the 328 practitioners sanctioned by the three states were also excluded by HHS.

There are also differences in the reasons for state sanctions and HHS exclusions although the reasons for both types of action are serious. Over 70 percent of the HHS exclusion actions were for criminal violations against the programs. However, 58 percent of the 328 licensing board sanctions in the three states were for problems that affected the practitioners' ability to meet minimum professional standards or to provide quality care. We found that 189 state sanctions (58 percent) were taken because of such problems as malpractice, alcohol or drug abuse, and immoral conduct which affect quality of care. Seventy-five (23 percent) were due to drug trafficking, drug sales, or violation of the controlled substance act; 29 (9 percent) of the practitioners were sanctioned for criminal acts or private insurance fraud; and 28 cases (8 percent) occurred because of the practitioners submitting false Medicare and Medicaid claims. Seven sanctions (2 percent) were for other reasons.

Reasons for state sanctions nationwide are similar to those in the three states. Information reported nationally by state licensing boards to the Federation of State Medical Boards for 1979-82 on 1,388 practitioners showed that the reasons for actions taken in Michigan, Ohio, and Pennsylvania are similar to the reasons for ac-

tions taken by licensing boards throughout the nation. For example, 61 percent of the actions reported by the Federation involved problems that affected quality of care as compared to the 58 percent we found in the three states in our review.

The problems that caused the physicians to lose their licenses are serious. However, it is important to note that the problems involved only a small percentage of the nation's physicians. For example, in 1982 only about 1 in every 1,000 physicians lost their licenses for disciplinary reasons.

Of the 328 practitioners sanctioned by the three states we identified, 122 held licenses in at least one other state at the time of the sanction. Having licenses in other states permits sanctioned practitioners to move to another state and continue practicing. Of these 122 practitioners, 30 corrected their problems, retired, or died. The other 92 had to relocate if they wanted to practice. We were able to trace 49 of these practitioners to other states and found that 39 obtained provider numbers to directly bill the Medicare and/or Medicaid programs. The other 10 relocated, but did not obtain a provider number. They could be serving Medicare and Medicaid patients in a hospital, clinic, or other institution where the institution and not the practitioner bills the two programs for services provided. We could not determine the whereabouts of the other 43.

When practitioners sanctioned by state licensing boards relocate, we believe serious questions arise concerning the quality of care provided by them to Medicare and Medicaid patients because there are no assurances that the problems that led to their sanctioning in one state were corrected before they began treating Medicare and Medicaid patients in other states.

PRACTITIONERS WHO HAVE PROBLEMS PRACTICE IN OTHER STATES

Of the 39 practitioners who moved to other states and enrolled in the Medicare and/or Medicaid programs, 28 originally lost their licenses because they committed acts or had problems which, according to the state licensing boards, showed that they did not meet professional standards. The other 11 practitioners were sanctioned by the states for various criminal activities. Only three of these practitioners were excluded by HHS from participation in Medicare and Medicaid. This permitted the others to participate in the two programs in other states and, in some instances, commit the same or similar acts. For example:

A medical doctor was found to be mentally impaired and unfit to practice medicine by the Michigan Medical Board in June 1978. He surrendered his Ohio license in the same year but moved to New York and received Medicare and Medicaid payments. In April 1982, New York revoked his license for gross incompetence based on another state's action.

An Ohio dentist moved to Pennsylvania after he surrendered his license in Ohio because of drug usage and illegal possession of drugs. He participated in the Medicare program in Pennsylvania. He also enrolled in the Pennsylvania Medicaid program, but received no payments. In August 1983, the Pennsylvania Medicaid agency took action to deny all future payments to him based on information received concerning a guilty plea in Pittsburgh to a federal criminal charge of illegal prescribing practices.

An osteopathic doctor was licensed in Michigan in 1949 and also obtained licenses in 13 other states. In March 1951 he was convicted of unlawfully selling drugs in Michigan and did not renew his Michigan license but continued to practice elsewhere. In 1964 he was convicted of illegal drug sales in Texas, and many states began taking sanction actions against him. He again obtained a Michigan license in January 1972. In 1982, he was convicted or illegal drug sales for the third time and sentenced to 10 years in prison. Over the years, he worked under a Public Health Service grant, at the Veterans Administration, and as part of a group practice in Michigan serving Medicaid patients.

In summary, practitioners sanctioned by State licensing boards because they fail to meet minimum professional standards are moving to other states and treating Medicare and Medicaid patients. The continued participation of these practitioners in these programs raises serious questions about the quality of care some Medicare and Medicaid patients are receiving. There is no assurance that the practitioners corrected the problem that caused them to lose their licenses. They can continue to move and practice without correcting their problem until each state where they hold a license individually takes a sanction action against them.

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ADDITIONAL AUTHORITY NEEDED AT THE FEDERAL LEVEL TO PROTECT MEDICARE AND MEDICAID BENEFICIARIES

A primary reason why sanctioned practitioners were able to go to other states to practice was that the other states never learned about the practitioners' previous offenses or, by the time they did, many months or years had passed. When states are informed, it takes up to 3 years to sanction practitioners because of the procedures that must be followed and the shortage of personnel to carry out these procedures. Specifically, for the 39 practitioners that we identified as relocating and practicing under Medicare and/or Medicaid after a state licensing board had revoked or suspended their licenses, as of October 1983, 18 had their licenses suspended or revoked in the other states where they held licenses and 21 still held licenses. The time elapsed between the initial sanctioning action and action by the other states averaged about 2.6 years, ranging from 6 months to 5.2 years. On the average, 3.5 years had elapsed since the 21 practitioners still holding licenses had been sanctioned by the initial state. The range was from 10 months to 8.7 years.

State licensing officials said the main reason for allowing practitioners to remain active in their states was that they did not know about disciplinary actions in other states. In cases where they were informed and considered the offenses serious enough to remove the practitioners' licenses, they usually were not informed of the other states' actions in a timely manner. In addition, state licensing laws may preclude a state from taking action based solely on another state's sanction.

Under current law, HHS can exclude practitioners from participation in Medicare for a number of reasons:

Conviction of a criminal act against Medicare, Medicaid, or title XX of the Social Security Act, (section 1128).

When HHS imposes a civil monetary penalty for acts against Medicare or Medicaid (section 1128A).

Submitting false claims to Medicare (section 1128).

Habitually providing more services than necessary to Medicare beneficiaries (section 1862(d)).

Submitting Medicare claims with charges that substantially exceed the practitioner's customary charges (section 1862(d)).

Providing services to Medicare beneficiaries that are of a quality which fails to meet professionally recognized standards of care (section 1862(d)).

HHS has authority to require all States to exclude practitioners from participating in Medicaid only when the practitioner is convicted of a criminal act against Medicare, Medicaid, or title XX (section 1128) or when HHS has imposed a civil monetary penalty on the practitioner for acts against Medicare or Medicaid (section 1128A). If HHS excludes a practitioner from Medicare for one of the other allowed reasons, it is required to notify state Medicaid agencies of this but cannot require the states to exclude the practitioner from Medicaid.

We believe that the current practitioner exclusion authority HHS has is insufficient in several respects. Our review of HHS' exclusion authority under Medicare and Medicaid showed four potential gaps:

Practitioners who lose their right to participate in Medicaid in one state for such reasons as habitual overutilization can continue to practice under Medicare in that state or relocate to another where they hold a license and practice under Medicare and Medicaid.

Practitioners who lose their right to participate in Medicare for such reasons as providing inappropriate care can continue to participate in Medicaid in any state where they hold a license.

Practitioners who lose their license in one state can relocate to another state where they hold a license and practice under Medicare and Medicaid.

Practitioners convicted of crimes other than Medicare and Medicaid fraud can continue to practice under Medicare and Medicaid.

The kinds of situations when HHS cannot nationally exclude practitioners discussed above involve serious problems. Practitioners have been found unfit to participate in Medicare or Medicaid in a particular state, or have been found unfit to practice in one state. We believe that to protect all Medicare and Medicaid patients from practitioners found unfit, HHS needs the authority to nationally exclude them from participation in these programs after reviewing the findings that caused action to be taken against the practitioners. Also, if HHS could sanction nationally a practitioner sanctioned by a state licensing board, it would help eliminate the lag in time between action in one state and action in other states where a practitioner holds licenses.

H.R. 5989 would close the gaps in HHS's exclusion authority that we identified in our May 1 report and we support enactment of those provisions.

HHS INFORMATION SYSTEM ON SANCTIONED PROVIDERS SHOULD BE EXPANDED

Through its Office of Inspector General, HHS is establishing an information reporting system which will include public information on practitioners who have been excluded from federal health care programs and from other public and private health care payment programs that choose to participate in the information system. However, HHS was not planning to include initially in this system practitioners sanctioned by state licensing boards. We believe that to be effective the system should include public information on all practitioners sanctioned by states because they committed acts or have problems that resulted in state licensing boards determining that these practitioners did not meet minimum professional standards.

We recommended that the information system include all practitioners sanctioned by state licensing boards. H.R. 5989 includes provisions that would provide a legal basis to assure that HHS receives from the states the necessary data to implement the provision enabling exclusion of practitioners sanctioned by their state licensing boards.

Mr. Chairman, this concludes my statement. We would be pleased to respond to questions.

Chairman JACOBS. Thank you, sir.

Mr. Kusserow?

STATEMENT OF RICHARD P. KUSSEROW, INSPECTOR GENERAL, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY KENNETH NELSON, M.D., MEDICAL ADVISER

Mr. KUSSEROW. Mr. Chairman, members of the committee, I am Richard P. Kusserow, Inspector General, Department of Health and Human Services. Joining me is Dr. Kenneth Nelson, Medical Adviser to the OIG.

I appreciate the opportunity to discuss H.R. 5989, the Medicare and Medicaid Patient and Program Protection Act of 1984.

This afternoon, I would like to share with you the experience of the Office of the Inspector General in exercising our authorities to impose penalties and sanctions against health care professionals who defraud or abuse the Medicare or Medicaid Programs.

We come in total support of the concepts of this bill. It is vitally important that we protect the beneficiaries of our federally financed health care program from those individuals who render inferior health care.

Our beneficiaries do not have the ability to thoroughly research the background of physicians to determine their professional reputation or whether they are able to supply quality health care services.

In many cases, beneficiaries have little choice as to who will treat them. It is our responsibility to assure the quality of health care for the beneficiaries of our programs.

Passage of this bill will send a clear message that we will not permit our beneficiaries to receive second-class health care.

Before discussing the bill, I would like to provide some background of our involvement in this area.

Americans spend over $300 billion a year on health care annually. Our Department expends about a third of that total. Health care has become this Nation's third largest industry, and its most vulnerable one.

Medicare and Medicaid, which together represent the second largest expenditure in the Department, next to Social Security,

provide health care to 51 million aged, infirmed, and disadvantaged Americans.

The Office of the Inspector General is committed to stopping health care ripoffs and insuring that our scarce health care funds reach the aged and disadvantaged.

In order to emphasize this commitment, last year Secretary Heckler transferred to the Inspector General's Office from the Health Care Financing Administration the authority to suspend or terminate from participation in Medicare and Medicaid all health care providers who engage in fraudulent or abusive practices in those programs.

During the same time period, the civil money penalties law, CMPL, providing tough monetary sanctions, was formally implemented by the Department, further empowering the Inspector General to take action against health providers who abuse or defraud these programs.

Under these sanctioning authorities, health care professionals engaging in improper practices can be suspended from participation in the Medicare and Medicaid Programs and/or financially penalized.

They also provide for termination of agreements between the Department and hospitals, nursing homes, and other institutions engaging in similar acts.

Under various sections of the Social Security Act as amended, our existing administrative sanctions may be imposed on anyone who:

One, submits false statements or claims for payment;

Two, submits, or causes to be submitted, bills or requests for payment containing charges substantially in excess of customary charges;

Three, furnishes services which are determined to be substantially in excess of the needs of patients;

Four, furnishes services which are determined to be of quality failing to meet professionally recognized standards of health care; or

Five, fails to keep adequate medical records to demonstrate the need for services rendered.

In addition, criminal convictions relating to either Medicare or Medicaid are grounds for suspension from those programs.

A provider sanctioned under any of the above authorities is excluded for specified periods of time, in almost all cases. At the end of the period, the provider may apply for reinstatement, but reinstatement to the programs is contingent on our determination that the offense is not likely to recur.

It should be noted that the State and local agencies responsible for licensing or certification are notified of the suspension and are requested to invoke a sanction in accordance with applicable State law or policy.

Since receiving the sanction authority in January 1983, the OIG has imposed 564 sanctions. I would note that approximately 50 percent of that figure represents doctors, dentists, chiropractors and pharmacists.

The OIG, with significant support from all components of the Department, as well as the private sector, is taking an active role

both in pursuing criminal investigations and in eliminating all loopholes which breed fraud, waste and abuse.

The civil money penalties authority provides another sanction tool in these efforts. In 1981, concerned by testimony that up to 10 percent of all Medicare and Medicaid claims contain false information, Congress responded by authorizing the Department to develop and implement a program for the administrative imposition of civil money penalties against wrongdoers.

Until enactment of this landmark legislation, the Federal Government was limited to court prosecutions under the False Claims Act or the Criminal Code to compel restitution of funds illegally or improperly claimed.

Criminal prosecutions were often not forthcoming in many health care provider fraud cases. For a variety of reasons, such as clogged court calendars, or insufficient dollar amounts, the Department of Justice was unable to exercise its legal authority.

The CMPL was designed to deal with providers who submit bills for items or services not provided as claimed. It hits defrauders where it hurts: In the pocketbook.

Over and above any prosecutive action, the Department now has the authority to impose assessments and penalties to recover dollars lost as a result of the submission of false claims.

The law permits an assessment of up to twice the amount claimed against any person or organization who knows, or has reason to know that items or services were not provided as claimed.

In addition, not more than $2,000 per each item or service improperly claimed may be levied as a penalty. This insures that there is no unjust enrichment of wrongdoers, and that they pay a substantial penalty.

We have collected more than $5 million for recycling to the health care programs during the last year, based on this no-nonsense legislation.

Unquestionably, the civil money penalties law and the new suspension-exclusion authority are potent weapons.

Coupled with the fact that crooked health care providers now face an increased risk of imprisonment, these sanctions should underscore the message that the total resources of our Office are massed in an all-out effort to root out those few who would tarnish their professions by preying on the Medicare and Medicaid Programs or on innocent beneficiaries and recipients of the services provided by those programs.

That should go a long way in convincing potential wrongdoers that their crimes will be swiftly punished.

However, as we became more experienced with these programs, we also began to see their shortcomings. On May 1, we testified before Senator Heinz's Special Committee on Aging on our sanctioning and CMPL program.

We noted that in pursuing our aggressive program of administrative sanctions over the past year, we have identified numerous deficiencies in our authorities which have frustrated our goal of ridding the health care programs of corrupt or incompetent health care professionals.

At present, I am unable to bar individuals or health care entities who have been convicted of, one, defrauding private health insurers; two, defrauding other Federal, State or local programs; three, patient neglect or abuse; or, four, unlawful manufacture, distribution or dispensing of controlled substances.

Over the past 2 years, numerous cases have been referred to me concerning individuals who have been convicted in State courts of disgusting crimes related to the abuse or neglect of patients, particularly in nursing homes.

In addition, I am aware of cases involving health professionals whose primary occupation was dispensing drugs, not supplying health care. Some of these horror stories were documented in GAO's report on the subject; others in our own testimony, and our own case files.

We have no authority to protect beneficiaries from these persons and entities. Nor am I able to sanction individuals or entities who, one, have been sanctioned by States for abusing the Medicaid Program, or, two, who violate the anti-kickback provisions of the act.

The provisions of this bill address many of the concerns we have raised with the Department and which are now under their review. We believe that most of the sections of this bill can be implemented immediately with little or no administrative adjustments.

Those provisions which affect the civil money penalties program are basically clarifying provisions. Immediate enactment of these provisions would greatly benefit those handling CMPL cases.

For example, under H.R. 5989, the Secretary will be able to seek an injunction in U.S. District Court to enjoin violations of the statute, and prevent concealment or removal of assets to avoid paying the civil money penalty.

Another section adds a 6-year statute of limitation. Existing law did not address this issue directly.

Before concluding, I would like to propose a couple of minor technical modifications to one of the bill sections that would close existing loopholes in our present operations.

These suggestions would not lessen the concepts cited in the legislation. Rather, they would make use of what currently exists, thereby better protecting the Medicare and Medicaid Programs and their beneficiaries.

We are pleased that this bill recognizes that the findings of State licensing boards may be of value in protecting the integrity of the Medicare Program and the health and safety of the beneficiaries served.

Increased activities with these agencies is going to improve in our efforts to crack down on phony or dangerous health providers. For the Medicare and Medicaid Programs to fail to consider the possible implications of disciplinary actions by State licensing boards would appear to be inappropriate.

However, the manner in which this might best be carried out should be carefully considered.

I do not believe that the Department should be in the business of establishing a clearinghouse containing detailed information about sanctions of individual practitioners.

Section 1128(C)(a)(1) of the bill, as drafted, requires the Secretary to collect information and maintain a central information system related to the actions of State licensure authorities.

Currently, these kinds of information collection systems exist and witnesses representing such entities are here today. I believe it would be more appropriate to use these existing collection systems which have a proven record than to expend limited Federal funds and staff on this task.

Any member of my office assigned to duplicate an existing activity outside of the Federal sector is no longer available to conduct audits or investigations. For this reason, I recommend that the bill be modified to give us the discretion to use existing entities for the collection of information.

Because every action of a State licensing board might not be related to the ability of the practitioners to deliver quality care, we believe that it may be inappropriate for the Department to act on State licensing board actions without a determination that the practitioner has been delivering care that places our beneficiaries at risk of receiving unnecessary or poor quality of care or has engaged in the type of activity that could have an adverse impact on the fiscal integrity of the programs.

In addition, we do not believe that the Department should assume the responsibility of reviewing State decisions. Local peer review, in our opinion, is preferrable to decisions made at a distance based on less than firsthand information.

Knowing of information but now knowing how to interpret it was a significant factor in our recommendation. While we have always relied on State licensure boards to determine eligibility for participation in our programs, we have depended on the PRO's—formerly PSRO's—to advise us which practitioners should be excluded from participation.

Therefore, we recommend that peer review organizations review the licensing board actions. Where revocation or suspension is involved, the PRO would consider only whether patient protection and quality of care or financial integrity is involved.

If so, the Department could exclude based on the licensing board action. When a State licensing board has found that practitioners must be disciplined but their licenses are not revoked, we believe the PRO should review such cases to determine which practitioners constitute a hazard to the Medicare or Medicaid beneficiaries or the financial integrity of the program sufficient to recommend exclusion from the Medicare and Medicaid Programs.

Where less than revocation or suspension is involved, we do not believe the Department should be in the business of second-guessing State licensing boards, but it should encourage the PRO's to review practitioners targeted by State licensing boards.

We believe this approach will be successful because years of experience have shown that the PRO's are in the best position to determine if a health professional is supplying inferior quality health care.

We would also recommend that disciplinary actions be reported on the completion of the proceedings of a State licensing board rather than at the initiation.

Although early warning has desirable features, much time and effort would be wasted if a significant number of the investigations following the early warning conclude with no offense being found.

Should you find some useful features in our recommendations, we are available to work with you and your staffs in making modifications which will protect the Medicare Program and its beneficiaries without unnecessarily expanding the Federal role.

Thank you for the opportunity to testify this morning. We stand ready to answer any questions you may have.

Chairman JACOBS. Mr. Moore.

Mr. MOORE. Thank you, Mr. Chairman.

First, I would like to thank both the General Accounting Office and the Inspector General's Office of HHS for having done the excellent things they have done. They have focused our attention on this matter, and we certainly appreciate them doing so.

In your testimony, you have recommended the use of existing non-Federal entities for the collection of information about unfit practitioners. This is a departure from your earlier recommendations during the drafting of H.R. 5989, the bill before us.

I agree with you on the desirability of avoiding a new and duplicative Federal clearinghouse activity. If a clearinghouse operated outside the Federal Government is used, what would be the Department's involvement, and what controls would we have over it?

Mr. KUSSEROW. The problem we have in dealing with State licensing agencies is the fact that our concern is restricted to the programs of the Federal Government, more specifically in this case to the medicare and medicaid programs.

When we depart from that, if it does not have an effect on those programs, a lot of that information may not be of value.

Furthermore, a lot of sanctions taken by local licensing boards are of a nature that really do not relate to the concerns that we would have for quality beneficiary care, or to a fiduciary responsibility that health care practitioners would have in our programs.

In those instances, we would have no interest. Our interest would be limited to what effect it would have on our beneficiaries. We don't want to have practitioners who are not qualified to practice medicine at large dealing with our programs, or to have to settle for second-rate medical care for those programs.

Outside that, we would have no interest.

Mr. MOORE. In your opinion, are the existing clearinghouses in a position to provide the necessary service in a timely fashion?

Mr. KUSSEROW. We have been examining this area quite seriously ever since the Senate aging hearings and have talked a great deal with people involved in State licensing boards, as well as clearinghouses that are in existence, and we think that much of what is intended by the proposed legislation as currently drafted could, in fact, be had through these existing clearinghouse functions.

Mr. MOORE. In the bill, we followed your recommendations calling for the imposition of a minimum sentence period of 5 years for persons convicted of Medicare- and Medicaid-related crimes. Are there any circumstances you can conceive that 5 years may be unduly harsh?

Mr. KUSSEROW. Anybody convicted of a felony on the beneficiaries of these programs themselves should not ever participate in Medicare or Medicaid again. However, I can imagine there might be mitigating circumstances for which total exclusion for the life of the practitioner might not be desirable, and perhaps a 5-year exclusion may be sufficient.

Anybody who commits a crime against the beneficiaries of these programs should not ever be permitted to participate in them.

Mr. MOORE. Regarding the recently disclosed problem of people with bogus medical degrees, when you identify somebody like that, what can you do?

Mr. KUSSEROW. We have a task force involving all of the major investigative agencies, professional societies and other interested parties, and in those instances where we are able to identify practitioners who have bogus degrees who are attempting to participate in Medicare and Medicaid, we can take action against them.

If they are not participating in our programs, we cannot take action against them, but we have a major task force that is working, and that involves all levels of government and all interested parties and agencies, to identify the scope of the problem and develop a course of action to eliminate it.

Mr. MOORE. Following your original suggestion the bill requires the States to supply information to the Secretary of HHS when a formal proceeding is undertaken by a State licensing authority.

Is that really necessary, and would it be more appropriate, and easier to administer, simply to have the State inform the Secretary after the completion of the proceeding?

Mr. KUSSEROW. We would favor the latter. We would favor getting the information after there has been a disposition. As I pointed out in my testimony, being informed of pending proceedings could result in a situation where we may find that the investigation would clear the practitioner of any wrongdoing. In those cases, it would not be very efficient for us to have that information in hand.

Mr. MOORE. Thank you.

Chairman JACOBS. Mr. Bliley?

Mr. BLILEY. No questions.

Chairman JACOBS. Mr. Kusserow, I apologize for misidentifying you. It was in order so far as the procedure was concerned, out of order socially.

Mr. MOORE. Mr. Chairman, before you dismiss the panel, could I have a second round of questions?

Mr. Zimmerman, I have several questions for you. Your report states that it takes up to 3 years after an initial action is taken to sanction a practitioner. Why does it take so long?

Mr. ZIMMERMAN. A few reasons. No. 1, there is a question of due process here. When a practitioner is subject to a sanctioning action, he or she has a right to appeal the sanction.

It takes time for the sanctioning board to develop the information and evidence needed to come up with a case, and there is always a problem of having the people available to carry out that function by the sanctioning board, so it is more or less a combination of just being a timely process, a long, drawn-out process to begin with and having the people available to work on it.

Mr. MOORE. Your report supports providing HHS with increased exclusionary authority for Medicare and Medicaid to enable excluding practitioners from both programs when they are excluded from either program or convicted of any health-related crime or sanctioned by a State licensing board.

Do you recommend a mandatory exclusion in all three of those cases?

Mr. ZIMMERMAN. I believe we do, but let me check with Mr. Dowdal on that.

Mr. DOWDAL. No; we are not advocating mandatory exclusion, where the Secretary would have to do it. We believe that the Secretary should look at the circumstances surrounding the particular case, and then take action based upon whatever the facts in the case are, so we are advocating giving the authority to the Secretary to exclude in such situations, but not requiring the Secretary to do it.

Mr. ZIMMERMAN. More or less a discretionary situation. I am sorry I misunderstood your question.

Mr. MOORE. Would the expanded exclusion authority support prevent an excluded practitioner from getting Medicare and Medicaid funds through ownership of any entity providing services?

Mr. ZIMMERMAN. No; it would not. The practitioner would be excluded, but any facilities, hospitals, nursing homes he owned, they still could receive funds under the program.

Mr. DOWDAL. There is a new provision in the law included in the 1984 amendments just enacted that does give authority to exclude individuals and entities that are convicted of fraud from the programs.

However, the way entities are defined in that section of the law, it refers to providers, rehabilitation facilities, et cetera. It wouldn't affect a group practice or a clinic-type environment, so you could have a doctor who gets convicted of Medicaid fraud or Medicare fraud, and if he owned a particular group practice, he could still continue to profit from the other doctors who are working for him in that group practice.

Mr. MOORE. Would a practitioner's rights be protected if the Congress provides the expanded exclusionary authority you support and likewise the Inspector General supports, and I support. Can we protect those rights?

Mr. DOWDAL. The rights of the practitioners? In four situations we talked about in our report, those people have already gone through a due process to get to the point where the Secretary could take exclusion.

A sanction by a State licensing board is required to follow due process. Medicare and Medicaid exclusions are required to follow due process and obviously, a conviction for a felony, a crime, follows due process, so they have already all gone through one due process. Therefore, their rights, as far as we can see, their rights have been protected, their constitutional rights.

Mr. MOORE. How will the individual's rights be protected under the Federal information system or sanction the excluded providers?

Mr. DOWDAL. If such a system is established, which was at one time proposed by the Inspector General, that system would fall

under the purview of the Privacy Act, and the practitioners would be protected by the provisions of that act.

For example, they could obtain whatever information is in that system by requesting it, and if there is anything inaccurate in it or erroneous in it, they could get the inaccuracies corrected and the erroneous material removed.

So, the Privacy Act would take care of the protection of practitioners in a Federal system.

Mr. MOORE. Will the new exclusionary authority we are talking about in this bill protect Medicare and Medicaid beneficiaries from excluded practitioners who decide to work in a hospital or clinic, and have the entities bill the program?

Mr. DOWDAL. In that situation, the practitioner has decided he is going to violate his exclusion, and if the facility knowingly billed for him, it would be submitting false claims and again putting itself in jeopardy of being excluded. If the situation arises where a practitioner decides to violate his exclusion and the clinic or facility goes along with it, what we wanted the law to accomplish has not happened, but it is not because of a problem with the law, but rather a problem with the practitioner.

Mr. MOORE. That is a point I want to make clear. It is then the intention of the bill, and the intention of what you think it says, what you are recommending in your report, and what Mr. Kusserow recommended to us, that once a physician practitioner has been excluded, that is it.

There is no other body, entity, group, hospital, corporation or business, or anything else he can work for that will receive benefits for his services from Medicare or Medicaid?

Mr. DOWDAL. That is the way we understand it.

Mr. KUSSEROW. Also, if you do have practitioners who are no longer eligible to participate or bill the program, any bill they may submit or cause to be submitted to our programs after that would be a false claim and could be subject to possible criminal prosecution.

So, to answer your question, yes, that should preclude them from further participation in the program. To do so otherwise would be at risk of criminal violations.

Mr. MOORE. Thank you for the additional time.

Chairman JACOBS. I express our gratitude to the panel for your contribution to our record.

The next panel consists of Dr. Bryant Galusha, Federation of State Medical Boards of the United States, executive vice president; and William L. Wood, Jr., as well as Frances S. Berry, the chairman and director, respectively, of the Clearinghouse on Licensure, Enforcement and Regulation.

Dr. Galusha.

STATEMENT OF BRYANT L. GALUSHA, M.D., EXECUTIVE VICE PRESIDENT, FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES

Dr. GALUSHA. I am Dr. Bryant Galusha, executive vice president and chief operating officer of the Federation of State Medical Boards of the United States.

The Federation of State Medical Boards is the national organization of medical licensing and disciplinary boards and is made up of the medical boards of all the States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

The Federation of State Medical Boards occupies a unique position of responsibility and has earned national recognition for its accomplishments.

At the direction of its member boards and on behalf of the people they serve, the Federation has made and continues to make significant contributions to the effectiveness and integrity of the medical licensure and disciplinary systems, systems which are essential components of medical quality and physician accountability.

Of the Federation's many contributions directed toward the public welfare, two merit emphasis at this hearing.

First, I would like to mention the Federation Licensing Examination, known as the Flex, which is now used by all States and U.S. Territories as their own examination for medical licensure, has provided a level of uniformity among States unheard of prior to the initiation of the Flex program by the Federation in 1968.

As you probably know, the only other route to medical licensure is through the endorsement by State boards of the certification of the National Board of Medical Examiners.

Second, and of particular importance today, is the Federation's establishment of the Computerized Disciplinary Data Bank. The collection of disciplinary data for this computerized national data bank has a long history.

I am pleased to report that in the past 2 years, every member board has become an active contributor to the data bank, computerization of the data is at the state of the art, and the data bank's effectiveness is being clearly demonstrated on a daily basis.

I believe the activities of the federation I have mentioned are consistent with the purpose of the proposed legislation being discussed today, which I perceive to be the protection of the public health and welfare and the appropriate stewardship of public funds.

No organization is more committed than the federation to ridding the medical profession of individuals Senator Heinz has so appropriately called "unethical, unfit, carpetbagging doctors."

Therefore, with one reservation, I support this proposed legislation since its goals are clearly in keeping with the goals of the federation and its member boards.

My one reservation, gentlemen, relates to those sections of the proposed legislation which mandate the reporting by State medical licensing boards of disciplinary proceedings and sanction actions taken against physicians to the Secretary.

I respectfully request that these sections be deleted from the proposed legislation for the following reasons:

One, as I have said, the Federation, after years of dedicated effort and progressively increasing commitment by member State medical boards, has in operation a national reporting system similar to that envisioned by this legislation.

Two, the Federation's existing computerized disciplinary data bank, housed in our national office in Fort Worth, TX, collects and

stores all disciplinary actions taken against physicians resulting from formal charges.

This information is reviewed, categorized and distributed monthly to all United States and Territorial medical licensing boards, to Canadian Provincial licensing authorities—all of which are affiliate members of the federation—to the American Medical Association for use in its Physician Masterfile data base, the American Osteopathic Association, the Department of Health and Human Services Offices of Program Integrity, the DEA's domestic regional offices, the Department of Defense, the Department of Health and Human Services, and others.

I have provided a copy of a monthy disciplinary action report for your review.

As you will note, sanctions are categorized into major areas: License revocation, license suspension, and other appropriate categories.

I have provided a copy of our disciplinary coding system for your review.

I would also like you to know that each day, as we send out certifications of Flex test scores for licensure purposes, a report concerning any disciplinary action relating to the tested individual accompanies the grade.

We also receive calls daily from member boards requesting disciplinary action searches on given licensees or applicants for licensure. We can accomplish these searches by name and all predictable aliases within 2 minutes.

Actually, the average time is 1 minute and 5 seconds.

I have provided an example of an individual disciplinary search report for your review.

Three, without strong and compelling cause, it appears unnecessary and needlessly intrusive to implement a program which would interfere with the authority and responsibility which has been traditionally within the purview of the various States, most particularly when the States, by their joint action in the Federation, have addressed this very issue.

In fact, I would suggest that the States may well view such an action as the Federal Government's first step into the field of medical licensure.

Four, the creation of such a redundant system, in addition to being disruptive to the Federation's present system, would constitute a wholly unnecessary expenditure on the part of our Federal Government.

I have no doubt that such funds could be used in more productive and creative areas in the field of health care.

Time does not permit me to cite all of my concerns about this particular portion of the legislation. I would like to leave one other thought with you, however.

Individuals who voluntarily serve as members of State medical licensing and disciplinary boards, be they physicians or laymen, are much like you who serve in the U.S. Congress. They, too, make a significant personal sacrifice to serve the public good.

They, too, are often unfairly faulted, when the fault is often not theirs but rather the result of insufficient financial support to ful-

fill their public responsibilities and of restrictions imposed by inadequate State medical practice acts.

Among the Federation's contributions are concerted efforts to encourage sufficient funding of medical licensing boards and provide guidance for modern State medical practice acts.

I make this point to emphasize that the reporting of disciplinary action is simply an outcome, a result of an extended and complex process which links medical board actions to appropriate State financial and statutory support.

Recognizing the critical importance of this linkage, the Federation is actively addressing the full spectrum of disciplinary concern by strongly advocating and offering guidance for the adoption of effective medical practice acts, by emphasizing the need for appropriate board funding, and by providing a national disciplinary data bank to support every member board in its efforts. Those who serve on the boards deserve this support.

Finally, I would like to compliment the authors and supporters of this legislation for their demonstrated concern for medical quality, a concern they share with the Federation and its member boards.

I do, however, strongly urge you to delete the section to which I have referred. I hope that my comments have indicated that the work of the Federation of State Medical Boards has appropriately addressed the issue of medical disciplinary action reporting.

And I would suggest that, rather than create a redundant program, consideration be given to endorsing the present working disciplinary system of the Federation.

[Attachments to the prepared statement follow:]

MEMBERS OF THE FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES:

ALABAMA STATE BOARD OF MEDICAL EXAMINERS
ALASKA BOARD OF MEDICAL EXAMINERS
ARIZONA STATE BOARD OF MEDICAL EXAMINERS
ARIZONA BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE & SURGERY
ARKANSAS STATE MEDICAL BOARD
CALIFORNIA BOARD OF MEDICAL QUALITY ASSURANCE
CALIFORNIA BOARD OF OSTEOPATHIC EXAMINERS
COLORADO BOARD OF MEDICAL EXAMINERS
CONNECTICUT MEDICAL EXAMINING BOARD
DELAWARE BOARD OF MEDICAL PRACTICE
DISTRICT OF COLUMBIA COMMISSION ON LICENSURE TO PRACTICE THE HEALING ART
FLORIDA BOARD OF MEDICAL EXAMINERS
FLORIDA BOARD OF OSTEOPATHIC MEDICAL EXAMINERS
GEORGIA COMPOSITE BOARD OF MEDICAL EXAMINERS
HAWAII BOARD OF MEDICAL EXAMINERS
IDAHO STATE BOARD OF MEDICINE
ILLINOIS DEPARTMENT OF REGISTRATION & EDUCATION
INDIANA HEALTH PROFESSIONS SERVICE BUREAU
IOWA STATE BOARD OF MEDICAL EXAMINERS
KANSAS STATE BOARD OF HEALING ARTS
KENTUCKY STATE BOARD OF MEDICAL LICENSURE
LOUISIANA STATE BOARD OF MEDICAL EXAMINERS
MAINE STATE BOARD OF REGISTRATION IN MEDICINE
MARYLAND BOARD OF MEDICAL EXAMINERS
MARYLAND COMMISSION ON MEDICAL DISCIPLINE
MASSACHUSETTS BOARD OF REGISTRATION IN MEDICINE
MICHIGAN BOARD OF MEDICINE
MICHIGAN BOARD OF OSTEOPATHIC MEDICINE & SURGERY
MINNESOTA STATE BOARD OF MEDICAL EXAMINERS
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MISSOURI STATE BOARD OF REGISTRATION FOR THE HEALING ARTS
MONTANA STATE BOARD OF MEDICAL EXAMINERS
NEBRASKA BOARD OF EXAMINERS IN MEDICINE & SURGERY
NEVADA STATE BOARD OF MEDICAL EXAMINERS
NEW HAMPSHIRE BOARD OF REGISTRATION IN MEDICINE
NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS
NEW MEXICO STATE BOARD OF MEDICAL EXAMINERS
NEW MEXICO BOARD OF OSTEOPATHIC MEDICAL EXAMINERS
NEW YORK BOARD FOR MEDICINE
NORTH CAROLINA STATE BOARD OF MEDICAL EXAMINERS
NORTH DAKOTA STATE BOARD OF MEDICAL EXAMINERS
OHIO STATE MEDICAL BOARD
OKLAHOMA BOARD OF MEDICAL EXAMINERS
OREGON BOARD OF MEDICAL EXAMINERS
PENNSYLVANIA STATE BOARD OF MEDICAL EDUCATION & LICENSURE
PENNSYLVANIA STATE BOARD OF OSTEOPATHIC MEDICAL EXAMINERS
PUERTO RICO BOARD OF MEDICAL EXAMINERS
RHODE ISLAND DEPARTMENT OF HEALTH
RHODE ISLAND BOARD OF MEDICAL REVIEW

MEMBERS OF THE FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES:
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SOUTH CAROLINA STATE BOARD OF MEDICAL EXAMINERS
SOUTH DAKOTA STATE BOARD OF MEDICAL & OSTEOPATHIC EXAMINERS
TENNESSEE STATE BOARD OF MEDICAL EXAMINERS
TENNESSEE STATE BOARD OF OSTEOPATHIC EXAMINERS
TEXAS STATE BOARD OF MEDICAL EXAMINERS
UTAH DIVISION OF REGISTRATION
VERMONT BOARD OF MEDICAL PRACTICE
VIRGINIA STATE BOARD OF MEDICINE
WASHINGTON DEPARTMENT OF LICENSING
WASHINGTON BOARD OF OSTEOPATHIC MEDICINE & SURGERY
WEST VIRGINIA BOARD OF MEDICINE
WEST VIRGINIA STATE BOARD OF OSTEOPATHY
WISCONSIN DEPARTMENT OF REGISTRATION & LICENSING
WYOMING BOARD OF MEDICAL EXAMINERS
GUAM BOARD OF MEDICAL EXAMINERS
VIRGIN ISLANDS BOARD OF MEDICAL EXAMINERS

Attachment #1

FEDERATION OF STATE MEDICAL BOARDS
OF THE UNITED STATES, INC.
2630 W. Freeway, Suite #138
Fort Worth, Texas 76102-7199

July 3, 1984

BOARD ACTION REPORT FOR THE MONTH OF JUNE 1984

STATE	NAME, DATE & TYPE OF ACTION
ARIZONA (Med)	WILLIAM E. AMOS, M. D. d/b - 1/28/31 Grad of Bowman Gray
6/8/84 - The Order of Summary Suspension dated 1/20/84 was terminated and respondent entered into a Stipulation and Order Agreement with the Board. Code#410	
ARIZONA (Med)	ANGELITA DIONELA CARENCIA, M. D. Long Beach, CA d/b - 6/19/33 - Philippines Grad of Univ of Santo Tomas
6/15/84 - Respondent denied licensure due to her inability mentally and physically to safely engage in the practice of medicine. Code#412.4	
ARIZONA (Med)	GEORGE WILFRED GANNON, M. D. Phoenix, AZ d/b - 9/28/32 Grad of Indiana Univ Sch of Med License #3909
6/18/84 - Respondent issued a Decree of Censure for failure to transmit medical records upon request by another physician. Code#410	
ARIZONA (Med)	HOWARD DENNIS HARRIS, M. D. Scottsdale, AZ d/b - 3/7/38 Grad of Ohio State Univ Coll of Med License #4843
6/7/84 - License suspended until 11/14/88 due to conviction of a felony which constitutes unprofessional conduct. Code#310.5	
ARIZONA (Med)	GERRY RICHARD HOOPER, M. D. Mesa, AZ d/b - 2/2/37 Grad of St. Louis Univ Sch of Med License #6242
6/20/84 - Respondent's Order of Probation was continued, but modified to allow him to apply for reissuance of his Controlled Substances Registration Certificate for Class III and IV substances. Code#260	
ARIZONA (Med)	MICHAEL GORMAN HUMMER, M. D. Flagstaff, AZ d/b - 11/11/47 Grad of Oklahoma Coll of Med License #12332
6/8/84 - Termination of Probation. Code#401.1	
ARIZONA (Med)	GEORGE HARVEY RUE, M. D. Yarnell, AZ d/b - 5/25/1907 Grad of Coll of Medical Evangelists License #7280
6/7/84 - Termination of Probation. Code#401.1	

STATE	NAME, DATE & TYPE OF ACTION
ARIZONA (Med)	PAUL JASON SLOSSER, M. D. Yuma, AZ d/b - 6/191917 Grad of Western Reserve Univ License #2466
6/8/84 - Termination of Probation. Code#401.1	
ARIZONA (Med)	CALVIN HOWARD van der WAL, M. D. Scottsdale, AZ d/b - 3/20/45 Grad of Univ of Guadalajara License #10625
5/21/85 - Respondent issued a Decree of Censure for excessive fees which is unprofessional conduct. Code#406	
ARIZONA (Med)	STANLEY HOWARD ZOSLOW, M. D. Tucson, AZ d/b - 9/24/40 Grad of New York Univ Sch of Med License #6922
5/22/84 - Respondent issued a Decree of Censure for excessive fees which is unprofessional conduct. Code#406	
ARIZONA (Osteo)	GEORGE FOREST LANDMAN, D. O. License #1655
5/14/84 - License reinstated under terms and conditions. Code#401.7	
ARIZONA (Osteo)	MICHAEL SEPTER, D. O.
5/8/84 - License reinstated without restrictions. Code#401.1	
ARKANSAS	MICHAEL PERRY BASS, M. D.
4/13/84 - Since respondent did not appear before the Board to answer allegations pertaining to writing prescriptions for his wife and himself, his license will remain suspended until such time as he can appear. Code#303.3	
ARKANSAS	LOIS E. CALHOUN, M. D.
4/13/84 - Denied Temporary Permit due to license having been suspended in Florida. Code#410	
ARKANSAS	JOHN S. FERGUSON, M. D.
4/13/84 - Respondent voluntarily surrendered his license until such time that he can present his case pertaining to writing prescriptions for Schedules II and III, addicting or potentially harmful drugs excessively as well as writing prescriptions for himself and his mother. Code#140.2	
ARKANSAS	VICTOR FERRARI, M. D.
4/14/84 - Another Temporary Permit issued since favorable reports had been received. Code#409	
ARKANSAS	JOHN J. FINA, M. D.
4/13/84 - Respondent requested reinstatement of his Arkansas License. The Board voted to take no action until he returns to Arkansas. At that time the respondent may be issued a Temporary Permit to work under the supervision of another physician. Code#402	
ARKANSAS	PAUL J. HERGENROEDER, M. D.
4/13/84 - Respondent denied a Temporary Permit due to suspension of his license in Mississippi. Code#410	
ARKANSAS	DONALD G. LEONARD, M. D.
4/13/84 - Board voted to continue respondent's case until June which pertains to allegations of flagrant and persistant overcharging of patients. Code#410	

STATE	NAME, DATE & TYPE OF ACTION
ARKANSAS	G. DOTY MURPHY, M. D.

4/13/84 - Board voted to continue respondent's case until the June meeting -- pertaining to allegation of grossly negligent or ignorant malpractice. Code#410

ARKANSAS	DONALD M. RANEY, M. D.

4/13/84 - Granted permission to apply for Schedules III and IV of his DEA privileges based on his agreement that he will not order any Schedule drug for use in his office and that he only write prescriptions to patients. Code#405.1

ARKANSAS	ALLEN G. TALBOT, M. D.

4/13/84 - Permission granted to apply for DEA privileges. Code#405.1

ARKANSAS	JUSTIN ARTHUR TERNES, M. D.

4/14/84 - License suspended for one year and respondent issued a Temporary Permit due to alcohol abuse. Code#301

CALIFORNIA (Med)	DAVID R. ALLEN, M. D. Buena Park, CA License #G-25028

9/12/83 - License revoked; revocation stayed and respondent placed on five years probation under terms and conditions due to ignoring the consultation of psychiatrists in his grossly negligent and incompetent treatment of a suicidal patient with a severe psychiatric illness. Code#410

CALIFORNIA (Med)	ROBERT L. ANDERSON, M. D. Woodland, CA License #C-12166

9/21/83 - License revoked due to issuing false prescriptions for 2,400 Valium tablets in his father's name when he knew he had an expired DEA permit. One thousand four hundred of these tablets were sold on the street. Code#103.1

CALIFORNIA (Med)	RUSSELL E. ATKINSON, M. D. Crestline, CA License #AO-7289

12/21/83 - License revoked; revocation stayed and respondent placed on five years probation under terms and conditions due to excessive prescribing of controlled drugs without a good faith prior examination and medical indication. Code#203.3

CALIFORNIA (Med)	DONALD SIDNEY BELK, M. D. Poway, CA License #G-7799

8/8/83 - License revoked; revocation stayed and respondent placed on five years probation under terms and conditions due to dishonesty in filing Medi-Cal claims. Code#410

CALIFORNIA (Med)	WILLIAM H. BENNETT, M. D. San Luis Obispo, CA License #G-23147

10/26/83 - License revoked due to convictions for assault to commit murder, assault with a deadly weapon on a peace officer and other assault counts. Respondent sentenced to state prison for eleven years. Code#104.1

CALIFORNIA (Med)	DANIEL T. BERNEY, M. D. Laguna Niguel, CA License #C-16134

12/21/83 - Stipulated Decision that license be revoked; revocation stayed and respondent placed on five years probation under terms and conditions due to gross negligence, incompetence and repeated similar negligent acts in anesthesiology practice. Code#410

STATE	NAME, DATE & TYPE OF ACTION
CALIFORNIA (Med)	JAMES RUTHERFORD BLACK, M. D. Birmingham, AL License #C-24939
12/5/83 - License revoked due to disciplinary action in Alabama. Code#150	
CALIFORNIA (Med)	FREDERICK M. BLANTON, M. D. Fort Lauderdale, FL License #C-27304
8/8/83 - License revoked due to disciplinary action taken in Florida and Maryland. Code#150	
CALIFORNIA (Med)	NICHOLAS G. BRAEMER, M. D. Torrance, CA License #A-21927
11/17/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on five years probation under terms and conditions, including sixty days actual suspension, due to Federal conviction for receipt of remuneration for referring Medi-Cal patients for treatment. Code#410	
CALIFORNIA (Med)	ELLIOTT BRENDER, M. D. San Francisco, CA License #G-23902
8/22/83 - License revoked; revocation stayed and respondent placed on five years probation under terms and conditions, including suspension, until specified conditions have been satisfied, due to Federal conviction of obtaining controlled substances by misrepresentation. Code#203.8	
CALIFORNIA (Med)	JAMES R. COBB, M. D. Oxnard, CA License #C-38269
10/3/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and respondent placed on five years probation under terms and conditions due to gross negligence and incompetence in performing an abortion and in treating a sick baby. Code#410	
CALIFORNIA (Med)	ARTHUR L. CUMMINGS, M. D. Rackerby, CA License #A-9454
12/21/83 - License revoked due to violation of terms of probation. (Smuggled Elavil into jail for a female inmate.) Code#180	
CALIFORNIA (Med)	MILTON E. DENMARK, M. D. Loma Linda, CA License #A-10898
12/19/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on ten years probation under terms and conditions due to failure to comply with several probationary conditions under a prior decision. Code#410	
CALIFORNIA (Med)	LAWRENCE DENNEY, M. D. San Gabriel, CA License #C-14739
9/8/83 - License revoked due to incompetence and repeated similar negligent acts in the care and treatment of three hospitalized elderly patients, two of whom died. Code#102.5	
CALIFORNIA (Med)	E. GORDON DICKIE, M. D. Pebble Beach, CA License #G-3624

STATE	NAME, DATE & TYPE OF ACTION
CALIFORNIA (Med)	E. GORDON DICKIE, M. D. (continued)

9/29/83 - Stipulated Decision between the Board and respondent that his license be revoked due to conviction for unlawfully distributing drugs to various drug users without a good faith examination and medical indication. Code#410

CALIFORNIA (Med)	ABRAHAM GEORGE DUNN, JR., M. D. Fresno, CA License #A-19590

7/8/83 - License revoked; revocation stayed and respondent placed on six years probation under terms and conditions due to failure to comply with conditions under a prior decision. Ninety days actual suspension. Code#280

CALIFORNIA (Med)	JOHN PARMAN EDWARDS, M. D. Sacramento, CA License #C-19849

7/27/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on five years probation under terms and conditions due to conviction for violating Statute regulating drugs. Code#410

CALIFORNIA (Med)	HAL D. FARLEY, M. D. Huron, CA License #A-19961

10/12/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on five years probation under terms and conditions due to incompetence and repeated similar negligent acts in medical therapeutics and diagnostic testing. Code#410

CALIFORNIA (Med)	JOHN ALONSO FLOWERS, M. D. Torrance, CA License #C-37121

8/22/83 - License revoked; revocation stayed and respondent placed on seven years probation under terms and conditions due to incompetence in the diagnosis and treatment of sick infants and children. Code#202.1

CALIFORNIA (Med)	EDWIN H. FORD, M. D. Newport Beach, CA License #A-18557

12/15/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on ten years probation under terms and conditions due to gross negligence and incompetence in his management of a planned home delivery and of the newborn who died. Code#410

CALIFORNIA (Med)	LIONEL A. GAYRON, M. D. Orange, CA License #G-6069

9/12/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on ten years probation under terms and conditions, including one year actual suspension due to sexual trangressions with female patients during therapy, constituting unprofessional conduct, gross negligence and incompetence. Code#410

CALIFORNIA (Med)	MILTON S. GOLDMAN, M. D. Palm Springs, CA License #AO-6627

7/18/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on five years probation under terms and conditions due to gross negligence in diagnosis, treatment and management of cancer cases. Code#410

STATE	NAME, DATE & TYPE OF ACTION
CALIFORNIA (Med)	LIONEL JOHN GOTTSCHALK, M. D. Davis, CA License #C-35476

7/18/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on five years probation under terms and conditions, including seventy-five days actual suspension, due to conviction for filing false Medi-Cal claims. Code#410

CALIFORNIA (Med)	STANLEY GREENFIELD, M. D. Glendora, CA License #A-18575

12/30/83 - License revoked; revocation stayed and respondent placed on five years probation under terms and conditions due to conviction for prescribing a controlled substance to a person not under his treatment for a pathology or condition; excessive prescribing and prescribing without a good faith prior examination and medical indication. Code#203.3

CALIFORNIA (Med)	JOHN FRANCIS HARRIS, M. D. Orinda, CA License #C-26525

7/14/83 - License revoked due to prolific patterns of clearly excessive prescribing of narcotics and other controlled substances without a good faith prior examination and medical indication and in a grossly negligent manner. Code#103.3

CALIFORNIA (Med)	SIDNEY C. JACKSON, M. D. Union City, CA License #G-2323

10/26/83 - License revoked due to conviction for filing false Medi-Cal claims and a differenct conviction for theft. Code#105.1

CALIFORNIA (Med)	JAMES A. JETTON, M. D. Long Beach, CA License #AO-6709

9/28/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on three years probation under terms and conditions due to gross negligence and incompetence in surgical management of patient with gastrointestinal and gallbladder problems. Code#410

CALIFORNIA (Med)	WILLIAM F. KAROW, M. D. Cucamonga, CA License #C-27138

11/14/83 - License revoked; revocation stayed and respondent placed on five years probation under terms and conditions, including six months actual suspension, due to sexual misconduct with teenagers, resulting in a conviction. Code#210.4

CALIFORNIA (Med)	SAM KATANO, M. D. Visalia, CA A-28545

9/12/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on five years probation under terms and conditions due to repeated acts of clearly excessive prescribing of drugs and treatment to numerous patients — prescribed dangerous drugs without a good faith prior examination and medical indication. Code#410

CALIFORNIA (Med)	RAYMOND L. La SCOLA, M. D. Los Angeles, CA License #C-7555

11/14/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on seven years probation under terms and

STATE	NAME, DATE & TYPE OF ACTION
CALIFORNIA (Med)	RAYMOND L. La SCOLA, M. D. (continued)

conditions due to conviction for issuing a fictitious prescription for Dilaudid. He also prescribed Biphetamine without a good faith prior examination and medical indication. Code#410

CALIFORNIA (Med)	VIVIAN F. LEE, M. D. Carson City, NV License #A-21866

10/12/83 - License revoked; revocation stayed and respondent placed on seven years probation under terms and conditions due to gross negligence, incompetence and repeated similar negligent acts in obstetrics and neonatal pediatric care. Code#202.4

CALIFORNIA (Med)	ROBERT HARRIS LEWIS, M. D. San Diego, CA License #C-30822

8/22/83 - License revoked; revocation stayed and respondent placed on five years probation under terms and conditions due to clearly excessive prescribing of amphetamines without a good faith prior examination and medical indication. Code#203.3

CALIFORNIA (Med)	WESLEY LOCHAUSEN, M. D. Long Beach, CA License #G-1658

11/21/83 - Stipulated surrender of license. Accusation withdrawn. Code#410

CALIFORNIA (Med)	ALAN M. LOCKETZ, M. D. Tucson, AZ License #G-22400

7/14/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on five years probation under terms and conditions due to license restriction in Arizona because of mental impairment. Code#410

CALIFORNIA (Med)	JEFFREY R. MAC DONALD, M. D. Huntington Beach, CA License #G-19922

7/28/83 - License revoked due to conviction of murder. Code#104.6

CALIFORNIA (Med)	MEYER M. MANDEL, M. D. Covina, CA License #C-26556

11/4/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed, including forty-five days actual suspension and five years probation under terms and conditions due to allowing his wife, a vocational nurse, to issue and sign his name to triplicate prescription forms for Demerol. Code#410

CALIFORNIA (Med)	EMILIO H. MARQUEZ, M. D. Los Angeles, CA License #A-22361

11/18/83 - License revoked; revocation stayed and respondent placed on five years probation under terms and conditions due to inappropriate administration of antibiotics, constituting incompetence. He also violated terms of a prior discipline. Code#280

CALIFORNIA (Med)	ANTHONY JOSEPH MOGAVERO, M. D. San Diego, CA License #C-10868

12/23/83 - License revoked due to excessive prescribing without a good faith prior examination and medical indication. He also prescribed controlled substances in excessive quantities and for time periods not reasonably necessary, constituting incompetence and gross negligence. Code#103.3

STATE	NAME, DATE & TYPE OF ACTION
CALIFORNIA (Med)	DONALD F. MUHICH, M. D. Springfield, MO License #C-21845
11/4/83 - License revoked due to excessive use of alcohol. Code#101	
CALIFORNIA (Med)	DARYL E. MURDOCH, M. D. San Pablo, CA License #C-30489
12/28/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on five years probation under terms and conditions due to excessive prescribing of controlled substances. Code#410	
CALIFORNIA (Med)	IRVING GRANT ORLIN, M. D. Pasadena, CA License #G-22065
12/23/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on seven years probation under terms and conditions, including one hundred twenty days actual suspension due to prescribing Preludin and Quaalude to various individuals outside the usual course of professional practice and not for a legitimate medical purpose. Code#410	
CALIFORNIA (Med)	MITCHELL P. PRIES, M. D. Palm Springs, CA License #A-27687
10/13/83 - Stipulated Decision between the Board and respondent that license be revoked; revocation stayed and placed on five years probation under terms and conditions due to gross negligence and incompetence in the diagnosing, prescribing and treatment of a patient with a history of chronic obstructive pulmonary disease which included bronchial asthma. Code#410	
CALIFORNIA (Med)	DARWIN L. RICHARDSON, M. D. Needles, CA License #C-26735
9/13/83 - Stipulated surrender of license in consideration for dismissal of accusation. Code#410	
CALIFORNIA (Med)	CHARLES A. RICKMOND, M. D. Hayward, CA License #C-20133
11/18/83 - License revoked; revocation stayed and respondent placed on ten years probation, including ninety days actual suspension, under terms and conditions, due to conviction of indecent exposure. Code#380	
CALIFORNIA (Med)	EVELYN C. RIVERO, M. D. Sun Valley, CA License #A-37002
9/16/83 - Stipulated Decision between the Board and respondent that license be revoked; revocation stayed and placed on five years probation under terms and conditions, including forty-five days actual suspension due to conviction of prescribing a controlled substance without any medical necessity. Code#410	
CALIFORNIA (Med)	EDWARD ROBERTS, M. D. Crescent City, CA License #C-36923
8/25/83 - License revoked due to gross negligence in ophthalmological practice. Code#102.4	
CALIFORNIA	ROBERT SANTELLA, M. D. El Cajon, CA License #G-23945

STATE	NAME, DATE & TYPE OF ACTION
CALIFORNIA (Med)	ROBERT SANTELLA, M. D. (continued)

12/10/83 - Stipulated Decision that license be revoked; revocation stayed and respondent placed on five years probation under terms and conditions, including sixty days actual suspension, due to gross negligence and incompetence in the care and treatment of Ob/Gyn patients. Code#410

CALIFORNIA (Med)	PERRY M. SETON, M. D. Huntington Beach, CA License #G-1289

12/23/83 - Stipulated Decision between the Board and respondent that license be revoked; revocation stayed and placed on five years probation under terms and conditions due to incompetence in prescribing certain controlled drugs to a drug and alcohol abuser and in failing to refer the patient to alternative pain therapies. Code#410

CALIFORNIA (Med)	RICHARD SHEPARD, M. D. Mesa, AZ License #G-24198

12/23/83 - Stipulated Decision that license be revoked; revocation stayed and respondent placed on five years probation under terms and conditions due to violated statutes regulating drugs by obtaining cocaine from his employer without authorization and by failing to record purported administration of cocaine in patient records on three occasions. Code#410

CALIFORNIA (Med)	GARY LAVERN SIMPSON, M. D. Albuquerque, NM License #G-36677

11/4/83 - License revoked due to disciplinary action taken in New Mexico. Code#150

CALIFORNIA (Med)	MERLE L. TREWIN, M. D. Vallejo, CA License #A-19997

8/22/83 - Stipulated Decision between the Board and respondent that license be revoked; revocation stayed and placed on five years probation under terms and conditions due to issuing thirty-five triplicate prescriptions for Demerol and Percodan in the names of pa tients or friends, but diverted the drugs to family use. Code#410

CALIFORNIA (Med)	WILLIAM NEILS WEBER, M. D. San Francisco, CA License #G-12532

10/12/83 - License revoked; revocation stayed and respondent placed on five years probation under terms and conditions, including ninety days actual suspension due to violation of terms of probation. Code#280

CALIFORNIA (Med)	DAVID WREN, JR., M. D. Richmond, CA License #G-22810

7/6/83 - Stipulated Decision between the Board and respondent that his license be revoked; revocation stayed and placed on five years probation under terms and conditions due to repeated acts of clearly excessive treatment in orthopedic surgery. Code#410

COLORADO	HOWARD FRISCH, M. D.

4/13/84 - Stipulation Agreement between the Board and respondent that license be voluntarily suspended and respondent placed on indefinite probation under terms and conditions due to failure to accurately interpret and diagnose anatomic tissue specimens in his practice of pathology. Code#410

STATE	NAME, DATE & TYPE OF ACTION
COLORADO	GERALD EUGENE PULS, M. D.

5/4/84 - License revoked due to narcotic irregularities. Code#180

CONNECTICUT	MEYER LIEBOWITZ, M. D. Hamden, CT d/b - 7/26/35 Grad of Univ of Louvain - Belgium - 1967

5/15/84 - License revoked due to respondent distributing various controlled substances for medically improper purposes; falsified U.S. Post Office health insurance records; possessed and distributed cocaine in an improper and illegal manner. Code#103.4

GEORGIA	R. CLIFFORD MONTGOMERY, M. D. Montgomery Hospital Butler, GA 31006 d/b - 1919 License #5035

3/9/84 - Consent Order between the Board and respondent that sanctions be imposed on his license, including the surrender for cancellation of his DEA permit, due to narcotic violations. Code#410

HAWAII	WALTER S. YOKOYAMA, M. D.

5/16/84 - License revoked; revocation stayed and respondent allowed to continue the practice of medicine under terms and conditions, including permanent restrictions of his DEA registration for cocaine, seconal and dalmane. Code#203.7

ILLINOIS	ROBERT BEVIER, M. D. P. O. Box 278 Lake Mary, FL License #36-56661

3/84 - License suspended indefinitely after it was found, following a hearing, that respondent's Florida license had been revoked on the basis of drug and alcohol abuse as well as gross or repeated malpractice or failure to practice medicine competently. Code#350

ILLINOIS	PAUL E. BOURELLY, M. D. 7030 S. Euclid Chicago, IL License #36-28577

4/84 - Respondent placed on indefinite probation due to allegedly prescribing controlled substances for patients without obtaining medical histories or performing physicial examinations. Code#103.3

ILLINOIS	ARTHUR POLUSSA, M. D. 1140 W. Northshore Ave. Chicago, IL DEA License #003-036-66885

2/84 - Controlled substances license summarily suspended after allegations of unlawful dispensing of controlled substances. He was also Ordered to immediately surrender all the controlled substances in his possession. Code#303.1

ILLINOIS	GORDON L. RICHARDS, M. D. P. O. Box 367 Wilmington, IL DEA License #3-36-23938-1

4/84 - Controlled substances license voluntarily suspended for an indefinite period following allegations that he prescribed controlled substances to a patient known by him to be a drug addict. Code#303.1

ILLINOIS	IRVING WEISSMAN, M. D. 6489 Longmeadow Lincolnwood, IL License #36-27439

STATE	NAME, DATE & TYPE OF ACTION
ILLINOIS	IRVING WEISSMAN, M. D. (continued)

2/84 - License suspended for one year based on his conviction of two counts of mail fraud. Code#305.2

ILLINOIS	CLYDE WIELAND, M. D. Maple Summit Road Jerseyville, IL License #36-034319

4/84 - Respondent placed on one year probation as he failed to supervise and control the activity of his physician's assistant who allegedly exceeded the scope of his license. Code#280

ILLINOIS	PHILIP SCOTT ZIMMERMAN, M. D. Box 99 Christopher, IL

4/84 - Respondent's controlled substances license, #36-59066 suspended for an indefinite period due to allegations he wrote prescriptions for controlled substances for non-therapeutic purposes and used the substances for his personal consumption. Code#406

INDIANA	REYNALDO S. ANASCO, M. D.

5/17/84 - Since respondent continues to represent a clear and immediate danger to the public health and safety if he is allowed to continue to practice medicine, the suspension of his license is extended for ninety days; Ordered to immediately surrender his controlled substances permit and appear before the Board 8/16/84 to determine whether to continue the suspension or impose such other discipline as may be warranted under the law. Code#303.8

INDIANA	RUTH BAILEY, M. D. License #29402

3/15/84 - Emergency suspension of respondent's license for ninety days since the Board voted unanimously that she represented a clear and immediate danger to the public health and safety. She is to appear before the Board 5/17/84 so it can be determined if suspension is to be continued or other discipline to be imposed. Code#380

INDIANA	KERMIT Q. HIBNER, M. D. License #16760

5/17/84 - Respondent placed on six months probation under terms and conditions and Ordered to appear before the Board 8/16/84 to determine whether to continue this Order or impose such other discipline as may be warranted under the law due to violation of previous Agreed Order. Code#280

IOWA	JAMES E. DOLAN, M. D. License #16665 - issued 7/1/63

6/14/84 - Respondent placed on two years probation under terms and conditions due to prescribing anabolic steroids to twenty-nine known male patients without medical justification. Code#203.3

IOWA	BILLY GRIMMER, M. D. License #14911 - issued 6/17/54

6/7/84 - Respondent entered into informal settlement with the Board that his license be placed in inactive status for two years in disposition of a contested case initiated by the Board. Code#410

IOWA	LAWRENCE E. URBAN, D. O. 1535 Carroll St. Clearwater, FL 33515 Iowa License #1036

6/4/84 - Respondent voluntarily surrendered license to practice in Iowa. (He further stated his license certificate had been lost.)

STATE	NAME, DATE & TYPE OF ACTION
LOUISIANA	MICHAEL DAVID COX, M. D. 3000 Gorton Road Shreveport, LA 71119 or 2655 Hoyte St. Shreveport, LA 71118 d/b - 6/13/48 License #12320 - dated 12/6/73
6/2/84 - License summarily suspended pending a formal hearing due to allegations of issuing thirty-one written prescriptions for controlled substances without legitimate medical justification. Code#303.4	
LOUISIANA	JOHN HUBBARD OVERTON, M. D. #4 Dublin Square, Highway 51 So. Hammond, Louisiana 70401 d/b - 8/15/37 License #9305 - dated 6/16/62
6/1/84 - License suspended for ninety days and may not possess Federal or State controlled substances registrations for two and one half years due to prescribing, dispensing or administering habit-forming or other legally controlled substances in other than a legal or legitimate manner. Code#103.1	
LOUISIANA	JOHN LUKE PEPE, M. D. P. O. Box 457 Rogalusa, LA 70427 d/b - 3/1/16 License #4234 - dated 7/1/40
5/24/84 - License revoked due to prescribing habit- forming controlled substances for other than a legitimate medical purpose. Code#103.1	
LOUISIANA	NORMAN BARRY SCHNEIDER, M. D. 6612 Rexford Way Bakersfield, CA 93309 d/b - 9/22/44 License #3233R - dated 12/7/72
5/23/84 - License revoked due to revocation in the State of Florida. Code#105.1	
LOUISIANA	LYNN SIMON, M. D. 3580 Gentilly Blvd. New Orleans, LA 70122 d/b - 4/21/47 License #13348 - dated 6/12/75
5/29/84 - License summarily suspended, pending a formal hearing, due to allegations of grossly excessive prescribing of narcotic controlled substances to four individuals without legitimate medical justification. Code#303.4	
LOUISIANA	HAROLD JAMES WALL, M. D. P. O. Box 189 Bertram, TX 78605 d/b - 12/30/43 License #4403R - dated 10/26/78
5/23/84 - License revoked due to surrender of license in the State of California. Code#102.4	
LOUISIANA	MOSES EDWARD WILCOX, M. D. 504 N. Rendon St. New Orleans, LA 70119 d/b - 11/28/48 License #14369 - dated 6/16/77

STATE	NAME, DATE & TYPE OF ACTION
LOUISIANA	MOSES EDWARD WILCOX, M. D. (continued)
6/4/84 - The appeal process has been concluded and the Board's original decision of 5/3/82 is effective --- three months suspension of license and surrender of Federal and State permits to prescribe Schedules II and II-N controlled substances for a period of three years due to prescribing, dispensing and administering habit-forming controlled substances in other than legal or legitimate manner. Code#303.4	
MARYLAND	B. HAKKI ADAM, M. D.
5/29/84 - License suspended; suspension stayed and respondent placed on probation under terms and conditions due to Medicaid fraud. Code#410	
MARYLAND	JAMES E. POLLOCK, M. D.
6/5/84 - Consent Order between the Board and respondent that he be issued a Maryland license under probationary terms and conditions due to previous alcohol problems. Code#410	
MICHIGAN (Med)	TALMADGE G. HIEBERT, M. D. d/b - 5/13/24 Grad of Georgetown Univ
6/5/84 - Order of the Board dated 4/30/84 Stayed by Circuit Court for the County of Grand Traverse and held in abeyance pending resolution of this appeal. Code#180	
MICHIGAN (Osteo)	JOHN JOSEPH CONRY, D. O. Detroit, MI d/b - 9/25/45 Grad of COMS
6/7/84 - Consent Order and Stipulation Agreement between the Board and respondent that his license be revoked due to being found guilty of aiding and abetting the unlawful distribution of controlled substances. Code#410	
MICHIGAN (Osteo)	JOHN D. ROBERTSON, D. O. Belleville, MI d/b - 1/31/46 Grad of COMS
5/21/84 - License suspended for thirty days due to conviction of Medicare kickbacks. Code#305.1	
MINNESOTA	JAMES H. DOKKEN, M. D.
5/17/84 - Unconditional license reinstated. Code#401.1	
MINNESOTA	DONALD A. GILSDORF, M. D.
5/11/84 - Stipulation Agreement between the Board and respondent that he be issued a Minnesota license under conditions and restrictions due to excessive prescribing of controlled substances. Code#410	
MINNESOTA	JEFFERY C. MORGAN, M. D.
5/17/84 - Stipulation Agreement between the Board and respondent dated 11/30/83, due to his chemical dependency, is amended as outlined in "Amended Order" dated 5/17/84. Code#260	
MINNESOTA	FREDERICK H. WALTER, M. D.
2/26/84 - Stipulation Agreement between the Board and respondent that a Minnesota license be issued under conditions and restrictions due to previous chemical dependency. Code#410	
MINNESOTA	THOMAS F. WETTELAND, M. D.
6/2/84 - Stipulation Agreement between the Board and respondent that he be placed on two years probation under terms and conditions due to excessive prescribing of controlled substances. Code#410	
MINNESOTA	JOHN C. WOHLRABE, M. D.
6/2/84 - Respondent's license conditioned and restricted as stated in Order dated 6/2/84 due to chemical dependency. Code#203.7	

STATE	NAME, DATE & TYPE OF ACTION
MISSISSIPPI	HARRY ALBERT DANIELSON, M. D. 301 E. Waldon Ave. Phoenix, AZ 85016 d/b - 12/10/33 Grad of Loma Linda Univ - 1960
5/25/84 - In lieu of a hearing before the Board, Respondent requested through Consent Agreement that the Board place certain restrictions on his license similar to restrictions imposed by the Arizona Board due to alcohol abuse. Code#410	
MISSISSIPPI	WALTER CLARENCE FRIDAY, JR., M. D. Burlington, IA d/b - 7/26/18 Grad of Tulane Univ
4/25/84 - Consent Agreement between the Board and respondent that his license be revoked; revocation stayed and placed on five years probation under terms and conditions due to disciplinary action taken in the State of Iowa. Code#410	
MISSISSIPPI	JOSEPH ANTOINE GEORGE, M. D. Rayne, LA d/b - 11/20/24 Grad of Louisiana State Univ - 1952
5/18/84 - Voluntary surrender of license since respondent does not wish to enter into Consent Agreement with the Mississippi Board relative to disciplinary action taken by the State Board of Louisiana. Code#140.5	
MISSISSIPPI	GERALD ROY MYERS, M. D. Scottsdale, AZ d/b - 12/11/39
4/24/84 - Consent Agreement between the Board and respondent that he be placed on probation under terms and conditions corresponding to the action taken by the Arizona Board due to excessive prescribing of controlled drugs. Code#410	
MISSISSIPPI	ISAAC HARRY SALTZ, M. D. Eglin AFB, FL (Federap Prison Camp)
2/28/84 - License revoked due to disciplinary action taken in the State of Louisiana. Code#150	
MISSOURI	WILLIAM M. CONE, M. D. Alton, MO d/b - 10/6/24 Grad of Yale Univ
3/10/84 - Respondent's license fully restored after serving probation terms resulting from sexual improprieties with a patient. Code#401.1	
MISSOURI	ELIGIO C. CRUZ, M. D. Chesterfield, MO d/b - 1/29/39 Grad of Univ of Santo Tomas
1/10/84 - Voluntary surrender of license in exchange for immediate reinstatement under probationary terms subsequent to the Board's investigation into his personal abuse of drugs. Code#401.6	
MISSOURI	CLARENCE E. FELKER, III, M. D. Sikeston, MO d/b - 1/13/50 Grad of Missouri
1/12/84 - Voluntary surrender of license in exchange for reinstatement under probationary terms subsequent to the Board's investigation into his personal abuse of controlled substances. Code#401.6	

STATE	NAME DATE & TYPE OF ACTION
MISSOURI	FRANK L. GAUNT, D. O. Kimberling City, MO d/b - 4/11/18 Grad of Kirksville Coll of Ostio 6/16/84 - Respondent has appealed the Board's action to revoke his license as reported in the May 1984 report. Code#410
MISSOURI	ROBERT A. GUILD, D. O. 1740 Kelly Road Mason MI 48854 2/17/84 - Voluntary surrender of license with immediate reinstatement under probationary terms due to disciplinary action taken in another state. Code#401.6
MISSOURI	JOHN R. HAM-YING, M. D. Michigan d/b - 9/14/25 Grad of Kansas City Coll Osteo 1/18/84 - License revoked due to disciplinary taken by Michigan Osteo. Board. Code#150
MISSOURI	THOMAS R. JOBE, D. O. Blue Springs, MO d/b - 8/19/42 Grad of Kirksville Coll Osteo 1/30/84 - Voluntary surrender of license due to disciplinary action taken in another state. Code#150
MISSOURI	LEWIS CLARK JONES, D. O. 436 Hurst Bushnell, IL d/b - 7/24/24 Grad of Kansas City Coll Osteo 2/23/84 - Voluntary surrender of license due to disciplinary action taken in another State. Code#140.5
MISSOURI	KENYON STUART LATHAM, M. D. 109 N. High Street California, MO 65018 d/b - 5/24/15 Grad of Univ of MO 3/10/84 - License fully restored. Code#401.1
MISSOURI	WALTER J. KUTRYB, M. D. 11115 N. Halls Ferry Rd. Florissant, MO 63033 d/b - 1/25/26 Grad of St. Louis Univ 2/13/84 - Voluntary surrender of license with immediate reinstatement under terms of probation subsequent to Board's investigation of his excessive prescribing and/or dispensing of controlled substances. Code#401.6
MISSOURI	DARRELL E. McNEELY, D. O. 404 Pennsylvania Lawson, MO 64062 d/b - 6/21/16 Grad of Kirksville Coll Osteo 2/24/84 - Voluntary surrender of license with immediate reinstatement under terms of probation subsequent to Board's investigation into his prescribing and/or dispensing violations. Code#401.6

STATE	NAME, DATE & TYPE OF ACTION
MISSOURI	JOHN B. ROBERTS, D. O. Box 294 Seneca, MO 64865

1/9/84 - Voluntary surrender of license subsequent to Board's investigation into his prescribing and/or dispensing of controlled substances. Code#140.2

MISSOURI	OTHNIEL J. SEIDEN, M. D. 3654 S. Oneida Way Denver, CO 80237 d/b - 5/6/33 Grad of Univ of MO

3/9/84 - Voluntary surrender of license with immediate reinstatement under terms of probation due to disciplinary taken in another state. Code#401.6

MISSOURI	J. MICHAEL SMITH, M. D. 614 W. 39th Street Kansas City, MO 64111 d/b - 9/26/37 Grad of Univ of Iowa

3/10/84 - License fully restored. (Previous insurance fraud) Code#401.1

MISSOURI	CONRAD SOMMER, M. D. St. Louis, MO

5/23/83 - Voluntarily surrendered license in exchange for immediate reinstatement under terms of probation subsequent to the Board's investigation into his inappropriate prescribing and/or dispensing practices. Code#140.2

MISSOURI	PHILLIP R. SOSNOFF, D. OD. Cross Keys Shopping Center Suite 228, The 210 Bldg. Florissant, MO 63033 d/b - 2/17/48 Grad of Kansas City Osteo

2/21/84 - Voluntary surrender of license with immediate reinstatement under terms of probation subsequent to the Board's investigation into his personal abuse of controlled substances. Code#401.6

MISSOURI	DUANE A. THOMPSON, D. O. Route 3, Box 21-F Gaston, OR 97119 d/b - 6/14/34 Grad of Chicago Coll Osteo

1/10/84 - Stipulation Agreement between the Board and respondent that he surrender his license and have it placed on non-renewal status due to disciplinary action taken in another state. Code#410

MONTANA	EDMUND P. LIVELY, M. D.

6/20/84 - Letter from Montana Board stating respondent had left the state, did not renew his license and has been under investigation. Code#410

NEVADA	DONALD E. SOLI, M. D. Reno, NV d/b - 2/22/22 Grad of State Univ of Iowa

6/2/84 - Stipulated Agreement between the Board and respondent based upon original complaint reported in May 1984 Board Action Report. Code#410

NEW JERSEY	CHRISTOPHER CHAPMAN, M. D. 8 Main Street Netcong, NJ d/b - 7/28/09 Grad of Long Island Coll of Med - 1949 License #17181

STATE	NAME, DATE & TYPE OF ACTION
NEW JERSEY	CHRISTOPHER CHAPMAN, M. D. (continued)
5/1/84 - Voluntary surrender of license in lieu of formal proceedings due to allegations of improper C.D.S. practices. Code#140.2	
NEW JERSEY	JAMES J. DAUBERT, M. D. 627 Route 518 P. O. Box 181 Blawenburg, NJ d/b - 6/30/30 Grad of Stritch Sch of Med - 1956 License #17181
5/8/84 - Reprimanded for prescribing Dexedrine without proper narcolepsy diagnosis. Respondent shall obtain proper neurological consulatations and cease issuing pre-dated prescriptions. Code#406	
NEW JERSEY	MING YUAN HUANG, M. D. 195 W. High St. Somerville, NJ d/b - 3/14/35 Grad of Howard Univ - 1964 License #31800
5/24/84 - License suspended for two years; suspension stayed and becomes a period of probation with terms and conditions due to prescribing Schedule IV Controlled Dangerous Substances in an indescriminace manner. Code#203.3	
NEW JERSEY	ANDRES W. R. JACKSON, M. D. 950 Sherman Ave. Elizabeth, NJ 07208 d/b - 3/14/35 Grad of Howard Univ - 1964 License #32660
5/10/84 - License suspended for six years, the first three years active and the remainder a period of probation under terms and conditions due to indiscriminate C.D.S. prescribing/dispensing and suspension of Medicaid privileges in Alabama. Code#303.3	
NEW JERSEY	DAVID TAYLOR SCHWARTZ, M. D. 615 Chainbridge Road McLean, VA 22101 d/b - 5/7/37 Grad of Columbia Univ, NY - 1963 License #22469
5/4/84 - License suspended for one year, retroactive to 12/10/82, date of Virginia action. Code#350	
NEW JERSEY	VINCENT A. SCUDESE, M. D. 81 Avon Drive Essex Fells, NJ 07021 d/b - 1/23/19 Grad of Hahnemann Med Coll - 1944 License #11416
5/2/84 - Application for reinstatement denied due to failure to comply with terms of probation. Code#410	
NEW JERSEY	HIROSHI SUZUKI, M. D. Rittenhouse Claridge, Apt. #517 Philadelphia, PA 19103 d/b - 3/24/32 - Japan Grad of Nagano Prefective, Japan License #30700

STATE	NAME, DATE & TYPE OF ACTION
NEW JERSEY	HIROSHI SUZUKI, M. D. (continued)

5/17/84 - Respondent shall notify Board prior to commencing practice in New Jersey, and if he does, must practice only under supervision of a New Jersey licensed physician, due to pleading guilty to thirteen counts of repeated negligence as Assistant Medical Examiner for Glousester County, New Jersey. Code#410

NEW JERSEY	ADOLPH J. WYSOCKI, D. O. 224 E. 5th Avenue Roselle, NJ d/b - 6/17/16 Grad of Phila. Coll of Osteo - 1945 License #12118

5/9/84 - License temporarily suspended pending disposition of plenary hearing on Administrative Complaint of alleged, indiscriminate prescribing of C.D.S. Code#303.3

NORTH CAROLINA	BRADLEY JAMES BERQUIST, M. D. Hillsboro, OR d/b - 8/27/50

3/22/84 - Respondent surrendered his license. Code#180

NORTH CAROLINA	SUSANNE STANLEY CARLAN, M. D. Surfside Beach, SC d/b - 9/9/41

4/9/84 - Respondent surrendered her license. Code#180

NORTH CAROLINA	WILLIAM NYE CORPENING, M. D. Granite Falls, NC d/b - 3/16/18

4/20/84 - Respondent surrendered his license. Code#180

NORTH CAROLINA	JACOB ROBERT FISHMAN, M. D. Fayetteville, N C d/b - 8/6/30

3/22/84 - Respondent surrendered his license. Code#180

NORTH CAROLINA	KARL LANDER LAWING, M. D. Lincolnton, NC d/b - 9/19/25

5/17/84 - Suspension of revocation cancelled and license revoked. Code#180

OHIO	JOHN B. GARDINER, D. O. 25 Tibet Road Columbus, OH 43202 d/b - 2/10/25 Kansas City Coll of Osteo License #0775

6/1/84 - License suspended for one year with all but sixty days of said suspension being stayed. Respondent placed on two year probation due to failure to use reasonable care discrimination in the administration of drugs, or failure to employ scientific methods in the selection of drugs or other modalities for treatment of disease; excessive and inappropriate prescribing of controlled substances. Code#203.2

OHIO	JAMES R. HUDSON, M. D. 1750 St. Charles, Apt. #311 New Orleans, LA 70130 d/b - 11/24/09 Grad of Electic Med Coll - 1937 License #010612

STATE	NAME, DATE & TYPE OF ACTION
OHIO	JAMES R. HUDSON, M. D. (continued)

5/29/84 - Voluntarily surrendered medical license due to non-compliance of CME requirements. Because of voluntary surrender of license, there was no Board Order in these proceedings. Code#140.5

OHIO	ALFRED C. NEPTUNE, M. D. 231 Granada Ave. Youngstown, OH 44504 License #045993

5/15/84 - Complaint received from the State Pharmacy Board regarding respondent who had a chemical dependency problem. He surrendered his DEA certificate to the Pharmacy Board 9/16/83 and will be asked to enter into a Consent Agreement with the Medical Board. Code#410

OHIO	BOHUMILA SLABOCHOVA, M. D. 5815 Market Street Youngstown, OH 44512 d/b - 4/3/28 - Czechoslovakia Grad of Charles Univ License #37733 - dated 8/16/74

2/8/84 - License suspended indefinitely due to narcotic violations. Code#303.7

OKLAHOMA	VISHWAS G. BHOPALE, M. D. Tahlequah, OK d/b - 2/19/35

5/18/84 - License suspended for forty-five days. At end of suspension, respondent to be placed on five years probation under terms and conditions due to narcotic violations. Code#303.8

OKLAHOMA	ROBERT WINGO GIBSON, M. D. Ponca City, OK d/b - 5/20/23

5/18/84 - Respondent placed on one year probation under terms and conditions due to excessive prescribing of controlled substances without medical need. Respondent has appealed Board's decision. Code#203.4

OKLAHOMA	MARY ANN GILLIAM, M. D. Oklahoma City, OK d/b - 11/10/43

5/18/84 - The Board Ordered that this cause be continued for the taking of additional evidence at its next meeting in 9/84. Respondent to furnish an up-to-date written report from her treating psychiatrist. Code#410

OKLAHOMA	JACK ALLEN HARDER, M. D. Weatherford, OK d/b - 9/9/39 Grad of Univ of Oklahoma

5/19/84 - License revoked due to violation of terms of probation. Code#180

OKLAHOMA	NGOYI MUKANKU, M. D. Louisville, KY d/b - 3/2/51 Grad of Univ of Brussels

5/18/84 - Application for licensure denied due to information received from McGill University Hospital which stated they could not recommend respondent for licensure. Code#410

OKLAHOMA	JOHN EDWARD SCOWLEY (not licensed)

6/11/84 - Candidate denied admission to take the FLEX examination since he attended Kansas City College of Osteopathy for two years and the American University of the Caribbean from 8/80 to 5/82 with no evidence that he had had training in embryology, introduction to clinical medicine, clinical demonstration, epidemiology, medical

STATE	NAME, DATE & TYPE OF ACTION
OKLAHOMA	JOHN EDWARD SCOWLEY (continued)
statistics, basis of medical practice, and etiology and pathogenesis of disease. Code#404	
OKLAHOMA	TIEN-SHENG TU, M. D. Mooreland, OK d/b - 9/30/38
5/18/84 - Request for continuance of hearing granted and will be heard at 9/84 Board Meeting. During period prior to Board Meeting, respondent will not administer, dispense or prescribe any Schedule II drugs with the exception of hospital in-patients if another physician countersigns the orders and initials the patients' charts. Code#410	
OKLAHOMA	JAMES W. WARREN, M. D. Tulsa, OK d/b - 4/12/36
5/19/84 - License revoked due to violation of terms of probation. Code#103.8	
OKLAHOMA	HENRY OKDHAM WILLIAMS, M. D. Baton Rouge, LA d/b - 5/20/45
5/18/84 - Application for licensure tabled for personal appearance due to respondent having a history of drug dependency. Code#410	
OREGON	WARREN L. ANDERSON, M. D. Portland, OR d/b - 5/18/83
10/14/83 - License revoked; revocation stayed and respondent placed on ten years probation under terms and conditions due to self-administration of Percodan and Percocet 5. Code203.7	
OREGON	DAVID EARNHARDT BOAZ, M. D. Tualatin, OR 4/24/44 Grad of Duke Univ
4/13/84 - License reinstated. Code#401.1	
OREGON	CLIFTON LEIGH BRASHAR, M. D. Portland, OR d/b - 11/15/50 Grad of Univ of New Mexico
1/12/84 - License suspended due to personal abuse of drugs. Code#303.7	
OREGON	ROBERT F. CORRIGAN, M. D. Bend, OR d/b - 9/22/32 Grad of Univ of Or Med Sch
8/22/83 - License reinstated under terms of probation. Code#401.6	
OREGON	SANDRA J. FORREST, M. D. Medford, OR d/b - 8/20/51 Grad of Univ of Pittsburgh
6/7/84 - License reinstated.	(prior use of drugs) Code#401.1
OREGON	JEFFREY BENTON HAYES, M. D. Warren, OR d/b - 7/2/50 Grad of Med Coll of Ohio

STATE	NAME, DATE & TYPE OF ACTION
OREGON	JEFFREY BENTON HAYES, M. D. (continued)
4/12/84 - License revoked; revocation stayed and respondent placed on ten years probation under terms and conditions due to alcohol and drug abuse. Code#203.7	
OREGON	GREGORY L. LUTZ, M. D. Harrisburg, OR d/b - 4/14/46 Grad of Dalhousie Univ - Nova Scotia, Can
4/12/84 - License reinstated to practice under terms of probation in Order dated 10/6/83. (Self administration of Demerol) Code#401.6	
OREGON	DAVID WARREN MOORE, M. D. Portland, OR d/b - 7/5/25 Grad of Western Reserve Univ
1/12/84 - License reinstated. Code#401.1	
OREGON	WILLIAM P. NEAL, D. O. Portland, OR d/b - 8/13/41 Grad of Kansas City Coll of Osteo
4/12/84 - Voluntary surrender of license pending appeal of conviction of felony crimes in Clackamas County Circuit Court. Code#140.3	
OREGON	ROBERT EUGENE SOTTA, M. D. Beaverton, OR d/b - 8/1/25 Grad of Georgetown Univ
1/12/84 - License reinstated. Code#401.1	
PENNSYLVANIA (Med)	MICHAEL A. ORIENTE, M. D. 918 Catherine St. Philadelphia, PA 19147 License #MD-026314-L
6/15/84 - Stipulation and Consent Agreement between the Board and respondent that his license be suspended for five years; said period of suspension to be retroactive from 8/1/83. It is further Ordered that the suspension be stayed and respondent placed on probation for a concurrent five years period under terms and conditions due to chemical abuse. Code#410	
PENNSYLVANIA (Med)	MARTIN R. WEBER, M. D. 4240 Elmerton Ave, Harrisburg, PA 17109 License #MD-28539-L
6/11/84 - Stipulation and Consent Agreement between the Board and respondent that his license be suspended for thirty days and immediately following the suspension, he be placed on thirty-five months probation under terms and conditions. It is further Ordered that thirty-six months after the effective date of this Order, that respondent's license shall be placed in inactive status and he shall permanently cease the practice of medicine and surgery in Pennsylvania due to making misleading, deceptive, untrue or fraudulent representations in the practice of medicine. Code#410	
PENNSYLVANIA (Osteo)	MERVYN E. BARROWS, D. O. License #OS-1429-L
6/19/84 - Stipulation and Consent Agreement between the Board and respondent that his license be revoked due to excessive prescribing of controlled substances. Code#410	
SOUTH CAROLINA	WILLIAM R. AMEEN, M. D. Orangeburg, SC Grad of Univ of So. Carolina License #4649

STATE	NAME, DATE & TYPE OF ACTION
SOUTH CAROLINA	WILLIAM R. AMEEN, M. D. (continued)

2/6/84 - License suspended for 5 years; suspension stayed and respondent placed on indefinite probation with conditions due to abuse of alcohol and improperly prescribing outside a bone fide physician/patient relationship. Code#201

SOUTH CAROLINA	ROBERT A. COCHRAN, M. D. Elgin, SC Grad of Temple Univ - 1946 License #3102

6/15/83 - Voluntary surrender of license. Code#140.5

SOUTH CAROLINA	JAMES CLEVELAND FREEMAN, M. D. Sylvania, GA d/b - 2/3/24 Grad of Emory Univ - 1946

5/9/84 - License revoked due to falsifying answer on re-registration certificate. Code#105.5

SOUTH CAROLINA	DANIEL W. GRISHAM, M. D. Anderson, SC Grad of Meharry - 1976 License #9540

2/25/84 - License suspended for three years; suspension stayed immediately and respondent placed on three years probation with conditions due to abuse of controlled substance. Code#203.8

SOUTH CAROLINA	RAFAEL G. RAZURI, M. D. Hardeeville, SC License #8634

7/11/83 - License suspended for six months; suspension stayed after three months and respondent placed on five years probation with conditions due to allowing an unlicensed and untrained individual treat patients and dispense medications while he was not on the premises. Code#230

TEXAS	JAMES DONALD COSTIN, D. O. 4211 Delmar Dallas, TX 75206

6/8/84 - License revoked and cancelled effective 2/29/84 at request of registrant due to retirement. Code#180

TEXAS	STEVEN WAYNE GRIFFIN, M. D. 5232 Forest Lane Dallas, Texas 75224

6/8/84 - License cancelled effective 4/13/84 as requested by registrant for the reasons stated in his voluntary privileged affidavit, in lieu of a formal hearing before the Board. (Restricted by voluntary affidavit which is privileged and confidential by Statute and Board Rule.) Code#180

TEXAS	ROBERT EDGAR HARVEY, M. D. 3901 N. Navarro St. Victoria, TX 77901

6/5/84 - Letter written to respondent notifying him he must obtain written permission from the Board prior to reapplying for Schedules II & II-N of his DEA and Texas Controlled Substances Registration Certificates. Code#410

TEXAS	RICHARD P. HOWARD, M. D. 401 W. Commerce, Suite #100 San Antonio, TX 78207

6/5/84 - Letter written to respondent notifying him he must obtain written permission from the Board prior to reapplying for Schedules II and II-N of his DEA and Texas controlled Substances Registration Certificates. Code#180

STATE	NAME, DATE & TYPE OF ACTION
TEXAS	CARL ERIC MARKSTROM, M. D. 406 E. Farmer Road Seagoville, TX 75159

6/5/84 - Letter written to respondent notifying him he must obtain written permission from the Board prior to reapplying for Schedules II, II-N, III, III-N and IV of his DEA and Texas Controlled Substances Registration Certificate. Code#410

VIRGINIA	OLIVER C. HOOD, M. D.

3/29/83 - Application for licensure denied due to alcohol abuse. Code#412.4

VIRGINIA	MARTHA S. SILVERSTEIN, M. D.

8/11/83 - License fully reinstated. Code#401.1

VIRGINIA	WARREN K. SOMMER, M. D.

3/29/83 - Petition for reinstatement of license denied due to disciplinary action in New Jersey. Code#402

VIRGINIA	DAVID R. STEWART, M. D.

3/15/84 - Respondent issued unrestricted license. (Denied licensure 8/11/83) Code#401.1

VIRGINIA	ROBERT J. SWAN, M. D.

9/9/83 - Ordered continued on indefinite probation with certain modifications in the terms and conditions listed in said Order. Code#280

VIRGINIA	DAVID K. WEBSTER, M. D.

8/30/83 - Ordered continued on indefinite probation with certain modifications in the terms and condisions listed in said Order. Code#280

VIRGINIA	EVERETT C. WHITE, M. D.

4/12/83 - Ordered continued on indefinite probation with certain modifications in the terms and conditions listed in said Order. Code#203.3

WYOMING	JOHN H. STORY, M. D. d/b - 2/14/26

6/30/84 - License revoked due to unprofessional and dishonorable conduct. Code#110.5

DEPARTMENT OF DEFENSE	LELAND S. GERDE, M. D. 111 Albermarle Dr. Williamsburg, VA 23185 d/b - 7/20/43 Grad of Indiana Univ Med Sch Licensed in Virginia, Texas and Illinois

11/16/83 - Termination of clinical privileges due to deficiencies in the quality of care rendered. Code#410. (For additional information, contact Thomas M Geer, Brig. Gen., Medical Corps, Dept. of the Army, Office of the Surgeon General, Washington, DC 20310 (202) 697-1917.)

DEPT OF HEALTH & HUMAN SERVICES

The following physicians have had their Medicaid/Medicare privileges either excluded, suspended or withdrawn due to offenses related to said programs:

STATE	NAME & ADDRESS	DATE	EXCLUSION	SUSPENSION
ARKANSAS	BILLY V. HALL, M. D. Box 369 Gravette, AR	7/20/83	5 yrs	
CALIFORNIA	DONALD S. BELK, M. D. 16212 Orchard Bend Rd Poway, CA 92064	9/23/83		5 yrs
CALIFORNIA	CARL ELLIS BELL, JR., M. D. 8386 Wilson Ct Alta Loma CA 91701			2 yrs

DEPT OF HEALTH & HUMAN SERVICES (continued)

STATE	NAME & ADDRESS	DATE	EXCLUSION	SUSPENSION
CALIFORNIA	NICHOLAS BRAEMER, M. D. 3400 W. Lometa, #301 Torrance, CA 90505	2/19/82		3 yrs
CALIFORNIA	SARA K. CARTER, M. D. 3825 Floresta Way Los Angeles, CA 90043	1/30/79		3 yr
CALIFORNIA	THEOPHILE CARTY, M. D. 3756 Santa Rosalia Los Angeles, CA 90008	1/20/82		2 yrs
CALIFORNIA	LOUIS J. CELLA, JR., M. D. Federal Correctional Inst. Lompoc, CA 93436	6/2/78		5 yrs
CALIFORNIA	TERRANCE (TERRY) CHAMBERLAIN,M.D. Sonoma County Honor Farm 2254 Airport Blvd. Santa Rosa, CA 95406	12/28/82		5 yrs
CALIFORNIA	KENNETH COFFIELD, M. D. 801 Tuolomne Vallejo, CA 94580	9/17/82	10 yrs	
CALIFORNIA	HARRY E. DeHAVEN, M. D. 8440 Sunset Blvd. Los Angeles, CA 90069	10/31/80		5 yrs
CALIFORNIA	ANU De MONTERISCE, M. D. 65 W. Cotati Ave. Cotati, CA 94928	11/4/82		2 yrs
CALIFORNIA	LAWRENCE A. DENNEY, M. D. Suite 8, 206 E. Las Tunas Dr San Gabrie, CA 91775	3/19/81	10 yrs	
CALIFORNIA	SAID N. DIBAJI, M. D. 6572 N. Brainwood Fresno, CA 93711	7/18/83		1 yr
CALIFORNIA	E. GORDON DICKIE, M. D. #79307-022 Federal Prison Camp P. O. Box 1000 Boron, CA 93516	2/27/84		7 yrs
CALIFORNIA	CHARLES FIALK, M. D. 1147 N. Clark Los Angeles, CA 90069	12/9/81		5 yrs

DEPT. OF HEALTH & HUMAN SERVICES (continued)

STATE	NAME & ADDRESS	DATE	EXCLUSION	SUSPENSION
CALIFORNIA (listed as: on CA Board Order)	BENVENIDO GARCIA, M. D. Bienvenido C. Garcia, M. D. 4930 Franco Ave. Stockton, CA 95121	12/9/81		5 yrs
CALIFORNIA	LIONEL GOTTSCHALK, M. D. 49 College Park Davis, CA 95616	6/8/83		3 yrs
CALIFORNIA	ROBERT MARC HODGES, M. D. 3720 Hampton Road Pasadena, CA 91107	9/22/83		3 yrs
CALIFORNIA	SIDNEY JACKSON, M. D. 426 Capitola Ave., #5 Capitola, CA 95010	11/2/83		10 yrs
CALIFORNIA	LEO F. KENNEALLY, M. D. 25081 Lewis & Clark Road Calabassas, CA 91302	3/31/80		3 yrs
CALIFORNIA	PETER LAVALLE, M. D. Star Route 315 Muir Beach, CA 94965	7/18/83		10 yrs
CALIFORNIA (Bd. Orders from CA & La list name as Leonard Irving Lesser)	LEONARD LESSOR, M. D. 223 Via Quito Newport Beach, CA 92660	3/25/82		5 yrs
CALIFORNIA	LESLIE LOW, M. D. 1348 Center St. Stockton, CA 95202	3/16/82	5 yrs	
CALIFORNIA	JEFFERY MANDEL, M. D. 3044 Deakin St. Berkley, CA 94705	9/30/82		2 yrs
CALIFORNIA	JOHN MARCUM, M. D. 258 Marengo Ave. San Dimas, CA 91773	12/28/82		2 yrs
CALIFORNIA	JOSEPH MARMET, M. D. 436 N. Roxbury Dr. Beverly Hills, CA 90210	4/9/84		5 yrs
CALIFORNIA	LORENZO MARTIN, M. D. 340 Fourth Ave. Chula Vista, CA 92010	5/12/80		5 yrs

DEPT. OF HEALTH & HUMAN SERVICES (continued)

STATE	NAME & ADDRESS	DATE	EXCLUSION	SUSPENSION
CALIFORNIA	ANTHONY MARTINEZ, M. D. 1150 N. Hacienda Blvd. La Puente, CA 91744	11/29/79		2 yrs
CALIFORNIA	ROBERT NEWPORT, M. D. 243 Berts Drive Ben Lomond, CA 95005	4/12/84		3 yrs
CALIFORNIA	ROBERT I. PICKER, M. D. 90 Northgate Ave. Berkeley, CA 94708	9/23/83		10 yrs
CALIFORNIA	BRANKO PLACIK, M. D. 11934 Hawthorne Blvd. Hawthorne, CA 90250	3/19/81	10 yrs	
CALIFORNIA	JOSHUA RUBINGER, M. D. 303 W. Banberg Dr Stockton, CA 95207	6/21/83		5 yrs
CALIFORNIA	MARC SANDERS, M. D. 1060 Bust St Santa Rosa, CA 95404	3/8/84		7 yrs
CALIFORNIA	MAXIMO SARMIENTTO, M. D. 3486-B Mission St San Francisco, CA 94110	9/19/78		1 yr
CALIFORNIA	JACK F. SHONKWILER, M. D. 2005 White Oaks Rd. Campbell, CA 95008	1/23/80		3 yrs
CALIFORNIA	MARC TALISMAN, M. D. 7718 Appaloosa Trail Orange County, CA 92629	12/28/82		2 yrs
CALIFORNIA	DUANE A. THOMPSON, D. O. 621 SW Morrison, #933 Portland, CA 97205	10/5/82		3 yrs
CALIFORNIA	GEORGE A. URY, M. D. 511 Highland Ave., #1 National City, CA 92050	6/8/83		3 yrs
CALIFORNIA	ROBERT M. WALKER, M. D. 205 Seascape Rd. Rancho Palos Verdes, CA 90274	3/29/82		4 yrs
CALIFORNIA	CARL B. YOUNGER, M. D. 3808 Riverside Dr. Burbank, CA 91505	5/9/79		5 yrs

DEPT. OF HEALTH & HUMAN SERVICES (continued)

STATE	NAME & ADDRESS	DATE	EXCLUSION	SUSPENSION
COLORADO	RONALD E. STRAND, M. D. 7280 N. Irving St. Westminister, CO 80030	6/24/83		5 yrs
FLORIDA	JOHN CAMPBELL, M. D. c/o Larry Tuner, Esq. 204 W. University Ave. Gainesville, FL 32601	11/8/83	1 yr	
FLORIDA	AIDA RODRIQUEZ, M. D. 1300-A NW 119th St. Miami, FL 33167	10/28/82	2 yrs	
FLORIDA	OLGA L. ROMANI, M. D. Womens Detention Ctr. 1401 NW 7th Ave. Miami, FL 33125	8/16/82		20 yrs
HAWAII	ETHEL OMORI ODA, M. D. 4210 Waialae Ave, Rm 7 Honolulu, HI 96816	12/10/81		5 yrs
MARYLAND	MOHAMMED AMIRGHOLI, M. D. 9401 Indian Head Highway Oxon Hill, MD 20022	2/11/82		3 yrs
MASSACHUSETTS	LAWRENCE J. DELANEY, M. D. 41 Juniper Lane Newton Center, MA 02159	4/7/81	5 yrs	
MASSACHUSETTS	JAMES YATES, M. D. c/o USA MEDDAC Fort Devens, M A 01433	8/3/83		5 yrs
MICHIGAN	MICHAEL J. BERMAN, D. O. 13714 Woodward Highland Park, MI 48203	3/27/80		11 yrs
MICHIGAN	FRANCIS J. GILBERT, M. D. 1218 Ellis St. Kewaunee, WI 54216	10/5/81	3 yrs	
MICHIGAN	JOHN ROBERTSON, D. O. 17050 Joy Rd. Detroit, MI 48228	5/10/82		3 yrs
MONTANA	JOHN F. McGREGOR, M. D. 21 3rd Street North Great Falls, MT 59401	4/19/84	5 yrs	
NEW JERSEY	FREDERICK A. GANGEMI, M. D. 234 Mont Prospect St. Newark, NJ 07104	8/29/83	1 yr	

DEPT. OF HEALTH & HUMAN SERVICES (continued)

STATE	NAME & ADDRESS	DATE	EXCLUSION	SUSPENSION
NEW JERSEY	VINCENT SCUDESE, M. D. 6 Pompton Ave. Cedar Grove, NJ 07009	7/29/82	7 yrs	
NEW JERSEY	IRVING SHAPIRO, M. D. 972 Broad St. Newark, NJ 07102	2/11/82		3 yrs
NEW JERSEY	WARREN K. SOMMER, M. D. 201 Lyons Avenue Newark, NJ 07100	2/19/82		10 yrs
NEW YORK	PETER J. DENTE, M. D. 143 Engert Ave. Brooklyn, NY 11222	11/14/79	Indefinite	
NEW YORK	SEYMOUR FELDMAN, M. D. Beacon, NY	5/19/78	Indefinite	
NEW YORK	JOSEPH GIUMMO, M. D. 75 Pierpont, #1-E New York, NY 11201	9/28/82		10 yrs
NEW YORK	M. RAFIG JAN, M. D. West Side Medical 136-7 W. 96th St. New York, NY 10025	11/2/83	3 yrs	
NEW YORK (listed on Bd. Order as Anthony Ching Kwok Lau, M.D.)	ANTHONY LAU, M. D. 4 Augusta Court New York, NY 10956	11/9/82		2 yrs
NEW YORK	CHARLES CLEMENT LUCAS, JR., M. D. Box 878 Tannersville, NY 12485	12/10/82		5 yrs
NEW YORK	ELIAS RAND, M. D. 1401 Ocean Avenue Brooklyn, NY 11230	2/11/82		3 yrs
NEW YORK	GEOFFREY RICHSTONE, M. D. 1050 Park Ave. New York, NY 10028	Physician has a request pending for a temporary restraining order. Exclusion has not yet been implemented.		
OKLAHOMA	KYONG S. CHAI, M. D. USAF Hospital Tinker AFB, Oklahoma	1/15/81		3 yrs
NEBRASKA	FRANCIS X. TAMISIEA, M. D. 6440 S. 118th Plaza	8/6/80		5 yrs

DEPT. OF HEALTH & HUMAN SERVICES (continued)

STATE	NAME & ADDRESS	DATE	EXCLUSION	SUSPENSION
PENNSYLVANIA	AMLETO ACQUAVIVA, M. D. 1112 S. Mill St. New Castle, PA 16101	1/2882		3 yrs
PENNSYLVANIA	PABLO K. CHAN, M. D. 1905 Valley Forge Rd. Lansdale, PA 19446	7/1/77	Indefinite	
PENNSYLVANIA	MEYER COHEN, M. D. 605 Bridle Rd. Philadelphia, PA 19033	7/19/83	1 yr	
PENNSYLVANIA	MELVIN L. JOHNSON, M. D. 2413 N. 7th St. Philadelphia, PA 19133	4/27/84		2 yrs
PENNSYLVANIA	MAHER S. MENA, M. D. 437 W. Orange St. Lancaster, PA 17603	3/12/84		5 yrs
PENNSYLVANIA	FERNAND N. PARENT, M. D. 426 W. Maine St. Monongahela, PA 15063	10/28/82	2 yrs	
PENNSYLVANIA	NATHAN STEINBERG, M. D. 745 S. 3rd St. Philadelphia, PA 19147	7/19/83	1 yr	
TENNESSEE	WINSTON HALL WORTHINGTON, M. D. 4272 Walnut Grove Rd. Memphis, TN 38117	12/18/80		25 yrs
TEXAS	EUGENE WADE DORSEY, M. D. 2524 Martin Luther King Blvd Dallas, TX 75201	12/14/82		5 yrs
TEXAS	RICHARD T. KONES, M. D. 11105 Bellaire 52 Houston, TX 77072	2/11/82		5 yrs
TEXAS	ANDREW MIESZ, M. D. 7220 Diary Ashford Houston, TX 75501	8/29/79		6 yrs
TEXAS	GREENWOOD S. WOOTEN, JR., M. D. 107 E. Tenth St. Austin, TX 78701	10/21/82		3 yrs

DEPT. OF HEALTH & HUMAN SERVICES (continued)

STATE	NAME & ADDRESS	DATE	EXCLUSION	SUSPENSION
VIRGINIA	PETER V. ALEXANDER, M. D. Bayside Medical Plaza, I-D 816 Independence Blvd. Virginia Beach, VA 23455	4/4/84		7 yrs
VIRGINIA	HARVEY B. JACOBS, M. D. 11607 Foxclove Rd. Reston, VA 22091	8/7/78	Indefinite	
WEST VIRGINIA	THOMAS E. FORTNER, M. D. c/o John R. Mitchell, Esq. 605 Virginia St. East Charleston, WV 25301	7/18/83		6 yrs
WEST VIRGINIA	LEOPOLDO HERNANDEZ, M. D. 5720 U.S. Route 60 E Huntington, WV 25705	11/22/78	Indefinite	
WISCONSIN	ALICE R. DEAN, M. D. 5426 N. Lake Dr. Whitefish Bay, WI 53217	4/9/82		4 yrs

CANADA

Alberta — DR. SIVALINGAMA COVENDEN
Spirit River, Alberta

6/11/84 - License has been suspended pending an investigation. Code#380

Alberta — DR. PATRICK O'ROONEY

4/18/84 - Respondent suspended from the practice of medicine due to improperly prescribing a quantity of the drug Lectopam to two patients without first having examined them or taken a medical history. Code#303.8

Alberta — DR. PENDYALA PANDARINATH
5013 - 51 Street
Wetaskiwin, Alberta T9A 1L4

5/15/84 - Respondent reprimanded due to failure to render all assistance in his power to ensure that a patient received appropriate care. Code#406

Alberta — DR. BHASKER M. PATEL
5013 - 51 Street
Wetaskiwin, Alberta T9A 1L4

5/15/84 - Respondent reprimanded due to failure to render all assistance in his power to ensure that a patient received appropriate care. Code#406

Alberta — DR. BHUPENDRA (Bob) KUMAR SOOD, JR.
Calgary, Alberta

5/15/84 - Name struck from the Register of College of Physicians & Surgeons of Alberta due to personal use of drugs and alcohol. Code#103.7

Saskatchewan — DR. BYRON CONRAD BASSETT
d/b - 12/4/25
Grad of Univ of Wales
License #2898

5/7/84 - License suspended for one year due to having been found guilty of inappropriately and indiscriminately prescribing controlled drugs. Code#303.3

DEPT. OF HEALTH & HUMAN SERVICES (continued)

STATE	NAME & ADDRESS	DATE	EXCLUSION	SUSPENSION
VIRGINIA	PETER V. ALEXANDER, M. D. Bayside Medical Plaza, I-D 816 Independence Blvd. Virginia Beach, VA 23455	4/4/84		7 yrs
VIRGINIA	HARVEY B. JACOBS, M. D. 11607 Foxclove Rd. Reston, VA 22091	8/7/78	Indefinite	
WEST VIRGINIA	THOMAS E. FORTNER, M. D. c/o John R. Mitchell, Esq. 605 Virginia St. East Charleston, WV 25301	7/18/83		6 yrs
WEST VIRGINIA	LEOPOLDO HERNANDEZ, M. D. 5720 U.S. Route 60 E Huntington, WV 25705	11/22/78	Indefinite	
WISCONSIN	ALICE R. DEAN, M. D. 5426 N. Lake Dr. Whitefish Bay, WI 53217	4/9/82		4 yrs

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Grad of Univ of Wales
License #2898

5/7/84 - License suspended for one year due to having been found guilty of inappropriately and indiscriminately prescribing controlled drugs. Code#303.3

FLORIDA	LEONOR D. DOPICO, M. D.
This action was inadvertently listed under California in the May 1984 Board Action Report and should have been listed under Florida.	
MISSISSIPPI	CHANGE OF ADDRESS FROM: P. O. Box 1700 to 2688-D Insurance Center Drive Jackson, MS 39216 (601) 354-6645
NEBRASKA	MARLIN RAY reported in May 1984 Board Action Report should be listed as MARLIN RAY BAUHARD, M. D.
NEVADA	STEVEN L. KAPLAN, M. D.
Reported in May 1984 Board Action Report. The action should include "Summary Suspension."	
NORTH CAROLINA	MATLOOB AHMAD KHAN, M. D.
3/17/84 - Board issued a temporary license to Dr. Khan.	
OHIO	LESLIE HUTCHINSON (not licensed)
6/18/84 - Application to take 12/83 FLEX exam denied as candidate had not received his M. D. Degree. Further inquiry revealed possible misrepresentations on his application. No formal action has been taken nor has he re-applied to take the exam. Code#404.	
OKLAHOMA	LEBY B. AVANZADO-MACARAEG, M. D.
6/11/84 - Application for licensure in Oklahoma denied due to failure to obtain FWA of 75 at one sitting on FLEX examination. Code#412.4	
OKLAHOMA	FRANK FU SON LIU, M. D.
5/18/84 - Application for licensure denied due to failure to obtain FWA of 75 at one sitting on FLEX examination. Code#412.4	
PENNSYLVANIA	EMMANEUL HRISO, M. D.
Letter from Dr. Hriso stating a copy of the letter communicating his license number had been stolen. License #MD-039610-L.	

* * * *

NOTE:

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Bryant L. Galusha, M.D.

BRYANT L. GALUSHA, M. D.
EXECUTIVE VICE-PRESIDENT

cc:
All member boards, Canadian Provincial Licensing Boards, American Medical Association, American Osteopathic Association, DHHS Office of Program Integrity - Atlanta, Baltimore, Boston, Chicago, Dallas, Denver, Kansas City, New York City, Philadelphia, San Francisco and Seattle; DEA Domestic Regional Offices - Boston, Chicago, Denver, Detroit, Kansas City, Los Angeles, Miami, New Orleans, New York City, Philadelphia, and Washington, DC; D ept. of Defense; Dept. of Health & Human Services.
Board of Directors - FSMB

Attachment #2

FEDERATION OF STATE MEDICAL BOARDS OF THE U.S., INC.
2630 West Freeway, Suite #138
Fort Worth, Texas 76102-7199

DISCIPLINARY CODING

100	LICENSES REVOKED	
101	ALCOHOLISM	
102	INCOMPETENCY/MALPRACTICE/NEGLIGENCE	
	102.1	Failed to provide emergency and/or timely treatment or abandoned patient
	102.2	Performed improper or unnecessary surgery
	102.3	Malpractice
	102.4	Gross negligence or incompentence
	102.5	Other incompetence/malpractice or negligence
103	NARCOTIC VIOLATIONS	
	103.1	Intentionally/unlawfully dispensing in violation of the law
	103.2	Prescribing/distributing or selling to addicts
	103.3	Prescribing without medical indication or examination
	103.4	Excessive prescribing to detriment of patients
	103.5	Prescribing drugs for sexual favors
	103.6	Failing to keep records on substances dispensed/prescribed
	103.7	Personal use or addiction
	103.8	Other narcotic violations
104	FELONY	
	104.1	Assault
	104.2	Abortion
	104.3	Conviction of a crime
	104.4	Petit larency
	104.5	Grand larency
	104.6	Murder
	104.7	Homicide or manslaughter
	104.8	Conviction of crimes not listed above
105	FRAUD	
	105.1	Medicaid/Medicare/Medi-Cal or other insurance fraud
	105.2	Using mails to defraud
	105.3	Receiving/concealing stolen property
	105.4	Income tax evasion
	105.5	Obtaining license by fraud
	105.6	Other fraud
110	UNPROFESSIONAL CONDUCT	
	110.1	Conviction of a crime
	110.2	Moral turpitude
	110.3	Criminal sexual conduct
	110.4	Engaging in lewd conduct
	110.5	Other unprofessional conduct
120	MENTAL REASONS	
130	ALLOWING UNLICENSED PERSON TO PRACTICE	
140	VOLUNTARY SURRENDER OF LICENSE	
	140.1	Intemperate use of alcohol
	140.2	Narcotic violations/use
	140.3	Pending disciplinary hearing
	140.4	Due to health related problems
	140.5	Other reasons for voluntary surrender of license
150	DISCIPLINARY ACTION TAKEN IN ANOTHER STATE	
180	OTHER REASONS LICENSES REVOKED -- NOT CLASSIFIED ABOVE	

Disciplinary Coding
Page 1

200	LICENSES REVOKED, REVOCATION STAYED, PLACED ON PROBATION	
201	ALCOHOLISM	
202	INCOMPETENCY/MALPRACTICE/NEGLIGENCE	
	202.1	Failed to provide emergency and/or timely treatment or abandoned patient
	202.2	Performed improper or unnecessary surgery
	202.3	Malpractice
	202.4	Gross Negligence or incompetence
	202.5	Other incompetence/malpractice or negligence
203	NARCOTIC VIOLATIONS	
	203.1	Intentionally/unlawfully dispensing in violation of the laws
	203.2	Prescribing/distributing or selling to addicts
	203.3	Prescribing without medical indication or examination
	203.4	Excessive prescribing to detriment of patients
	203.5	Prescribing drugs for sexual favors
	203.6	Failing to keep records on substances dispensed/prescribed
	203.7	Personal use or addiction
	203.8	Other narcotic violations
204	FELONY	
	204.1	Assault
	204.2	Abortion
	204.3	Conviction of a crime
	204.4	Petit larency
	204.5	Grand larency
	204.6	Murder
	204.7	Homicide or manslaughter
	204.8	Conviction of crimes not listed above
205	FRAUD	
	205.1	Medicaid/Medicare/Medi/Cal or other insurance fraud
	205.2	Using mails to defraud
	205.3	Receiving/concealing stolen property
	205.4	Income tax evasion
	205.5	Obtaining license by fraud
	205.6	Other fraud
210	UNPROFESSIONAL CONDUCT	
	210.1	Conviction of a crime
	210.2	Moral turpitude
	210.3	Criminal sexual conduct
	210.4	Engaging in lewd conduct
	210.5	Other unprofessional conduct
220	MENTAL REASONS	
230	ALLOWING UNLICENSED PERSON TO PRACTICE	
250	DISCIPLINARY ACTION TAKEN IN ANOTHER STATE	
260	PROBATION MODIFIED	
270	VIOLATION OF PROBATION	
280	OTHER REASONS NOT CLASSIFIED ABOVE	

Disciplinary Codes
Page 3

300	LICENSEE SUSPENDED	
301	ALCOHOLISM	
302	INCOMPETENCY/MALPRACTICE/NEGLIGENCE	
303	NARCOTIC VIOLATIONS	
	303.1	Intentionally/unlawfully dispensing in violation of the laws
	303.2	Prescribing/distributing or selling to addicts
	303.3	Prescribing without medical indication or examination
	303.4	Excessive prescribing to detriment of patients
	303.5	Prescribing drugs for sexual favors
	303.6	Failing to keep records on substances dispensed/prescribed
	303.7	Personal use or addiction
	303.8	Other narcotic violations
304	FELONY	
	304.1	Assault
	304.2	Abortion
	304.3	Conviction of a crime
305	FRAUD	
	305.1	Medicaid/Medicare/Medi-Cal or other insurance fraud
	305.2	Using mails to defraud
	305.3	Receiving/concealing stolen property
	305.4	Income tax evasion
	305.5	Obtaining license by fraud
	305.6	Other fraud
310	UNPROFESSIONAL CONDUCT	
	310.1	Conviction of a crime
	310.2	Moral turpitude
	310.3	Criminal sexual conduct
	310.4	Engaging in lewd conduct
	310.5	Other unprofessional conduct
320	MENTAL REASONS	
330	ALLOWING UNLICENSED PERSON TO PRACTICE	
350	DISCIPLINARY ACTION TAKEN IN ANOTHER STATE	
380	OTHER REASONS NOT CLASSIFIED ABOVE	

Disciplinary Codes
Page 4

400 MISCELLANEOUS
401 LICENSES RESTORED OR REINSTATED
- 401.1 Probation terminated - issued unrestricted license to practice
- 401.6 Restored or reinstated but still on probation
- 401.7 Restored or reinstated but must limit practice to certain areas or institutions
- 401.8 Others not listed

402 REINSTATEMENT DENIED
403 LICENSES BY RECIPROCITY DENIED
404 ADMITTANCE TO EXAMINATION DENIED
405 NARCOTIC PERMITS
- 405.1 Permission given to apply for permit
- 405.2 Directed not to apply for permit
- 405.3 Requested to surrender permit
- 405.4 Permit no longer needed as per agreement with Board
- 405.5 Permit denied
- 405.6 Permission given to apply for stated Schedules

406 REPRIMAND OR ADMONISHED
407 DUPLICATE LICENSES ISSUED
- 407.1 Change of name
- 407.2 License stolen or lost

408 ACCUSATION DISMISSED
409 DENIED PERMANENT LICENSE - ISSUED TEMPORARY LICENSE
410 OTHER MISCELLANEOUS ACTIONS NOT CLASSIFIED ABOVE -- (stipulation/consent orders/censure
411 ALLIGATION OF CHEATING
- 411.1 Exam taken but grades not given due to alligations of cheating
- 411.2 Ejected from exam

412 LICENSURE DENIED
- 412.1 Fraudulent Credentials
- 412.2 Failed to submit acceptable evidence of graduate training
- 412.3 Falsified Application
- 412.4 Others not listed

413 DEPARTMENT OF HEALTH & HUMAN SERVICES - MEDICAID/MEDICARE SANCTIONS (SSA; Sections 1128/1862(d) 1160)
- 413.1 Exclusion (false billing, excessive charges; excessive or inferior service-medicare
- 413.2 Suspension (conviction of criminal offense related to Medicaid/Medicare
- 413.3 Withdrawal
- 413.4 Reinstatement

414 REQUEST TERMINATION OF PROBATION DENIED
415 DISMISSED FROM MILITARY SERVICES
- 415.1 Intemperate use of alcohol
- 415.2 Narcotic violation/use
- 415.3 Health related problems
- 415.4 Incompetence/negligence
- 415.5 Others not listed

490 ACCUSATION FILED - CONTACT THE MEDICAL BOARD

Attachment #3

FEDERATION OF STATE MEDICAL BOARDS OF THE U.S., INC.
2630 W. Freeway, Suite #138
Fort Worth, TX 76102-7199
(817) 335-1141

Date 09/14/84

PLEASE NOTE:

The information contained in this report was supplied voluntarily by the repective state medical boards, and the Federation has made no attempt to verify its accuracy. Accordingly, the Federation makes no representations or warranties, either express or implied, as to the accuracy of such information and assumes no responsibility for any errors or omissions contained in it.

FSMB Disciplinary No. [redacted]

Individual's Name [redacted] DO

Date of Birth [redacted]

DISCIPLINARY INFORMATION

Date 04/01/82	LICENSE REVOKED
Disciplinary Code No. 102.4	INCOMPETENCY/MALPRACTICE/NEGLIGENCE
Action Taken By NEW YORK	Gross Negligence or incompetence
Date 10/15/82	LICENSE REVOKED
Disciplinary Code No. 103.3	NARCOTIC VIOLATION
Action Taken By FLORIDA OSTEO.	Prescribing without medical indication or examination
Date 11/08/82	LICENSE REVOKED
Disciplinary Code No. 140.5	VOLUNTARY SURRENDER OF LICENSE
Action Taken By OHIO	Other reasons for voluntary surrender of license
Date 12/23/82	LICENSE REVOKED
Disciplinary Code No. 140.2	VOLUNTARY SURRENDER OF LICENSE
Action Taken By NEW JERSEY	Narcotic violations/use
Date 08/29/83	LICENSE REVOKED
Disciplinary Code No. 150	DISCIPLINARY ACTION TAKEN IN
Action Taken By FLORIDA OSTEO.	ANOTHER STATE
Date 09/19/83	LICENSE REVOKED
Disciplinary Code No. 150	DISCIPLINARY ACTION TAKEN IN
Action Taken By INDIANA	ANOTHER STATE

*** END OF REPORT ***

For more information regarding the above listed action(s), please contact the reporting state medical board or agency.

FEDERATION OF STATE MEDICAL BOARDS OF THE U.S., INC.
2630 W. Freeway, Suite #138
Fort Worth, TX 76102-7199
(817) 335-1141

Date 09/14/84

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FSMB Disciplinary No. [redacted]

Individual's Name [redacted] MD

Medical School [redacted]

School Location [redacted] U.S.A.

Date of Birth [redacted]

DISCIPLINARY INFORMATION

Date 04/08/83 — LICENSE REVOKED
Disciplinary Code No. 102.5 — INCOMPETENCY/MALPRACTICE/NEGLIGENCE
Action Taken By PENNSYLVANIA — Other incompetency/malpratice or negligence

Specific Details:
DUE TO FAILURE TO MAKE PROPER PROVISION FOR THE TREATMENT OF PATIENTS; FAILURE TO ADEQUATELY SUPERVISE ASSISTANTS AND INABILITY TO PRACTICE WITH REASONABLE SKILL AND SAFETY TO PATIENTS BY REASON OF ILLNESS.

*** END OF REPORT ***

For more information regarding the above listed action(s), please contact the reporting state medical board or agency.

Chairman JACOBS. Mr. Wood?

STATEMENT OF WILLIAM L. WOOD, JR. EXECUTIVE DIRECTOR, OFFICE OF PROFESSIONAL DISCIPLINE, NEW YORK STATE EDUCATION DEPARTMENT, AND CHAIRMAN OF THE STEERING COMMITTEE, NATIONAL CLEARINGHOUSE ON LICENSURE, ENFORCEMENT AND REGULATION

Mr. WOOD. Mr. Chairman and honorable members of the committee, I am very pleased to appear before you today on behalf of two organizations.

As executive director of the New York State Office of Professional Discipline, I head the New York State agency that is responsible for receiving complaints alleging professional misconduct by licensed professionals.

In addition, my office investigates those complaints, and where appropriate, initiates administrative disciplinary proceedings that can and do result in revocation of licenses to practice, suspensions of those licenses, fines as high as $10,000 for each violation, and other sanctions.

New York grants licenses to practice medicine, pharmacy, nursing, dentistry, podiatry, chiropractic and 24 other professions. In all, over 500,000 individuals are licensed to practice a profession in New York.

The National Clearinghouse on Licensure, Enforcement and Regulation, an affiliate of the Council of State Governments, is a voluntary association of State agencies and boards involved in licensing individuals to practice professions and the oversight or regulation of those professions; 47 States are listed on our membership rolls. State and national professional associations are also members.

The National Clearinghouse has produced a variety of publications relating to professional licensure and regulation. It has conducted training sessions for board members, administrators, investigators and computer specialists.

It has been the recipient of substantial grants to undertake a variety of projects. It has held annual conferences attended by representatives of virtually all the States, the District of Columbia, Puerto Rico and Guam. Our last annual conference was attended by more than 500 participants representing 46 States.

But the National Clearinghouse's most significant accomplishment to date, in my opinion, has been the creation of a National Disciplinary Information System.

The National Disciplinary Information System is one under which State agencies and boards report the disciplinary actions they have taken to the National Clearinghouse.

The National Clearinghouse compiles all of that information and circulates a comprehensive report to each of its subscribers. Thus, each subscribing State is informed of all the disciplinary actions taken by all of the other subscribing States.

The publication of the first quarterly report took place this past June. The second quarterly report will be published before the end of this month.

The States have agreed that a "red flag" system best meets their needs. Under this system the name, profession, and identifying information such as the date of birth is reported, along with the sanction imposed and the State agency imposing it.

If the reported name, profession, and identifying data match any of its licensees, any subscribing State can call the reporting State to confirm identification and obtain certified copies of necessary documents.

At least one board of each of 29 States is a subscriber to the National Disciplinary Information System. However, a majority of those 29 States have a centralized disciplinary system, so that, as in New York, a single agency receives complaints and investigates and prosecutes disciplinary proceedings for many professions.

Indeed, with the participation of California, New York, Florida, Illinois, Missouri, and Wisconsin, all of which have centralized systems, I believe that over 70 percent of the professional misconduct that occurs in the United States will be compiled and reported to its subscribers by the National Clearinghouse.

On May 1 of this year, I appeared before the Senate Special Committee on Aging to testify in support of legislation that was intended to protect Medicare and Medicaid patients from sanctioned health practitioners.

I am before you now to express my continued support for such legislation, and to propose two amendments to that legislation which I believe will result in greater efficiency, increased involvement and participation by State agencies and boards and, as a consequence of those benefits, more comprehensive and better quality information made available more swiftly.

H.R. 5989/S.2744 contains provisions that would require State agencies and boards to report to the Secretary of Health and Human Services any formal proceeding commenced against a health care practitioner.

We urge that the bill be amended to permit the States to report their disciplinary information to any organization, satisfactory to the Secretary, that has contracted to collect, compile and report to its subscribers and to the secretary, on a quarterly or monthly basis, all the disciplinary information reported to it by its subscribers.

This amendment would be consistent with the policy of the current administration to leave in the hands of the States all the powers and responsibilities vested in them by our Federal Constitution and historic practice.

It may be true that they have been a little tardy in designing and implementing a national disciplinary information system, but the fact remains that the States have designed and implemented one, and that the National Clearinghouse's National Disciplinary Information system is now in place and operational.

Moreover, it is a system designed and approved by the States and meeting their needs as they saw them.

Finally, the States must have a disciplinary information system even if the Secretary is required by legislation to serve as a "clearinghouse" for disciplinary information on the six Medicaid-Medicare providers, since the State license, and hence wish to exchange information on far more than six professions.

In addition to the Medicaid-Medicare six, most States license and wish to keep track of at least the following professions:

Psychology, real estate brokers, real estate salesmen, optometrists, veterinary doctors, social workers, audiologists, speech pathologists, occupational therapists, physical therapists, certified public accountants, architects, engineers, and land surveyors.

Accordingly, if the Federal Government does not utilize the National Clearinghouse's ongoing National Disciplinary Information System for the six professions in which it is interested, it will have to design, construct and fund a duplicative system.

I do not believe that that decision would be consistent with the Federal Government's oft-stated policy against waste, duplication and inefficiency.

The Federation of State Medical Boards has implemented a disciplinary information system covering medical doctors and osteopathic doctors. We have already met with representatives of the Federation and begun discussing ways that our systems can be operated in a cooperative and nonduplicative fashion. We are confident that we will work out a satisfactory arrangement.

The second amendment we propose is that the disciplinary information to be reported be limited to final disciplinary actions and that the States not be obliged to report proceedings that have only been commenced.

Our reasons for making this suggestion are based on practicality and fairness.

First, fairness. Many States keep disciplinary proceedings confidential unless there has been a final administrative decision. By "final," I mean a decision that can be appealed to the courts.

They are kept confidential because a charge of professional misconduct is merely an allegation. Even though there may be sufficient justification for preferring the charge, the State agency or board still has the burden of proving it.

And, of course, it is always possible that it will not be able to do so. If the charge is publicized, but the State fails to prove its case and the licensee is exonerated, the licensee may have sustained irreparable injury.

Once his practice and reputation is damaged by the charge, he may not be able to rebuild his practice and regain his reputation, even though he has proven himself not guilty. Thus, it is important for the sake of fairness, that mere charges not be widely circulated.

From a practical point of view, the Secretary will not be able to take any action against a provider, simply because he has been charged.

If that is the case, why put the States to the burden of reporting that they have leveled charges and why put the Secretary to the inconvenience of keeping track of those charges?

Remember, a certain percentage of cases will not be proven. Therefore, wouldn't it make more sense to report only final determinations? Then the Secretary would be able to act on each case reported. She would not have to keep track of cases that she might or might not have to act on.

Thus, the Secretary would not have to "manage" a substantial volume of cases on which she will never be able to act.

40-424 0 - 85 - 7

We believe that H. 5989/S. 2744 is a valuable and important legislative initiative. We wholeheartedly support its enactment.

However, we believe that the legislation would be enhanced by the two suggestions we have made, namely, that an organization other than the Secretary be permitted to carry out the clearinghouse role; and that only final administrative determinations be reported.

We are sure that these amendments will result in enhanced efficiency, lower operating costs and improved quality.

We are eager to work with the Federal Government to design, implement and operate a disciplinary information system that will serve all of our needs at the lowest possible cost, and be a model for Federal-State cooperation.

Thank you very much.

Chairman JACOBS. I thank both of you.

Mr. Moore will inquire.

Mr. MOORE. Thank you, Mr. Chairman.

Dr. Galusha and Mr. Wood, I think we have agreement with your concern, as obvious by the question I asked Mr. Kusserow about the necessity of setting up a separate Federal agency activity to deal with this matter. But we also have your two organizations.

Do you think the two of you can work this thing out, so that we can work with just one or have some way that your activities can be coordinated?

Mr. WOOD. We think that we will be able to find a way to coordinate things, so that at most, you are working with two organizations to obtain all the information you want on the six-provider professions that you are concerned about.

Dr. GALUSHA. I will admit that the Federation is eminent in one field, Congressman, and that is in physician disciplinary action and that is our bag, and that is what we will do well, and we will promise you we will do well.

The other things we are not proficient in, and knowing of the reputation of Mr. Wood's organization, I think his statement that you can deal with two organizations and cover the entire field may well be the correct one.

Mr. MOORE. Let me ask you Mr. Wood, What happens if a State initiates disciplinary procedures against a physician, and then to duck the proceedings he moves to another State, are the proceedings stopped or carried out and are they reported in your organization?

Mr. WOOD. In most States, Florida, California, New York, Illinois, when a licensee flees the State to avoid a disciplinary proceeding, the enforcement officials in those States cheer, because it means they can conclude that disciplinary proceeding more simply because it is a default proceeding.

They continue the proceeding, resulting in a revocation or suspension, whatever sanction is appropriate, and then they communicate that to the other State.

So it is an easier enforcement effort when the licensee flees rather than defends a disciplinary proceeding, and that would be true for most States.

Dr. GALUSHA. I was on the North Carolina board for 12 years, and I would admit many of us turned our back, we were glad to g

rid of that bad apple from North Carolina and get rid of him. However, times have changed. Most of us in it know that. I am proud to say "Doctor" Bryant Galusha since the profession of medicine remains a noble one. The good old boys' club is closing. We are tightening the circle on bad and unethical doctors; their chances of getting away anew some place else are getting less and less each day.

Mr. MOORE. If a case should be closed without having reached the disciplinary stage, do you all have a record of that at your clearinghouses?

Dr. GALUSHA. Absolutely. We have a good information network now, and I might add that this proposed legislation is shoring up many of our efforts in all 50 States and four territories.

Mr. WOOD. The National Clearinghouse only contains information of final disciplinary proceedings, so if a State does not carry forward a disciplinary proceeding to a final decision, the Clearinghouse would not carry that information.

Dr. GALUSHA. May I add one other thing? The example you have before you of the monthly action report that goes to all of our member boards and Puerto Rico, District of Columbia, Guam and the Virgin Islands on a monthly basis—that is the result of formal charges.

We would be in a terrible position if we put out anything else. Thus, the information that goes out officially is, in fact, public information which is the result of formal charges that have come to conclusion.

Mr. MOORE. The only thing we are concerned about is where a fellow comes up for disciplinary action and then leaves the State causing the action to stop.

We would like to have a record of that, so we can follow that person to the State where he is going.

Dr. GALUSHA. We are trying to do just that. Also the Federation is actively reviewing and modifying medical practice acts. I would like for you to review the new guide to a modern Medical Practice Act which will be distributed to all States within the next 4 months.

Mr. Wood—speaking of a cooperative effort—has agreed to review the new guide and comment on indecisions such as summary actions to stop somebody from practicing immediately, the reporting of any unfinished actions to other States, and other areas of concern.

I believe, Mr. Moore, we have thought about everything, however, I imagine there will be somebody clever enough to find loopholes. We are getting pretty shrewd, sir, in identifying and tracking deviant physicians.

Mr. MOORE. It has been suggested by the IG of HHS that peer review organizations review licensing board actions and make recommendations to the IG on exclusion from Medicare. What do you think about that?

Dr. GALUSHA. I have not had time to think about this proposal. On the surface, it sounds like a good idea. Somebody is going to have to make the determination of what is to be done with a particular violator of Medicaid-Medicare, and I don't know if the final answer should be with the PRO's.

Some PRO's will be medical societies; some will be intermediaries. I think Inspector General Kusserow's concern that professionals should make professional judgments is a valid one, and if we choose that method, that would be in keeping with his desire.

Mr. MOORE. Dr. Galusha, how is your organization funded? We want to be sure you have the funding to do the job you want to do?

Dr. GALUSHA. Basically our funding is derived from dues from our 63 members—$1,000 per member—revenues generated by the FLEX examination, and revenues we receive from certification of grades.

The Division of Medicine, of the Health Resources and Services Agency has helped us with development of the new FLEX examination.

It is our intention to also seek financial help in further improving our present disciplinary action reporting system from HRSA.

Mr. MOORE. You only began recently, I understand, to collect information on suspension in addition to revocations, is that right?

Dr. GALUSHA. We put them under four categories. The first three of the four are revocations, stays of revocations, and suspensions.

Mr. MOORE. The GAO, in their testimony, has shown that according to their survey, State licensing agencies have said the main reason for HHS exclusion actions were for criminal violations against the programs. Does that predate the work of your Clearinghouse or your organization, the Federation, or is this out of date, or what?

Dr. GALUSHA. I think that is out of date. Sure, there are glitches in every system, but this is sent to each State every month. Some States don't have the wherewithal to check every registered practitioner. In that situation an individual could possibly be missed and in fact some have been missed.

I might add that I went to and met personally with Dr. James Sammons once vice president of the AMA. We are collaborating on improving the disciplinary action reporting of physicians to States where deviant physicians are known to hold valid licenses.

Mr. MOORE. Thank you both.

Chairman JACOBS. Thank you both for your testimony today.

Dr. GALUSHA. Thank you.

Chairman JACOBS. Our final panel is represented by the American Medical Association. Dr. John Ring, a member of the board of trustees and from the Washington Business Group on Health, Rick Lee, director of public policy issues.

STATEMENT OF JOHN J. RING, M.D., MEMBER, BOARD OF TRUSTEES, AMERICAN MEDICAL ASSOCIATION, ACCOMPANIED BY ROSS N. RUBIN, DIRECTOR, DEPARTMENT OF LEGISLATION

Dr. RING. Thank you, Mr. Chairman.

Mr. Chairman, and members of the subcommittee, I am John J. Ring, M.D. I am a physician in the general practice of medicine in Mundelein, IL, and I am a member of the American Medical Association's Board of Trustees. Accompanying me today is Ross N. Rubin, director of AMA Department of Federal Legislation.

This appearance marks the second time I have been before Congress to express the AMA's concern with certain health care practi-

tioners who have lost a license to practice within one State and continue receiving reimbursement through federally funded programs by moving to another State. I testified before the Senate Special Committee on Aging at the time of the release of a Government Accounting Office report on this subject.

At that time, I related that the AMA was gravely concerned that health care practitioners who have been found unfit to practice in one jurisdiction can relocate and practice in another jurisdiction where they hold a license. These practitioners discredit their professions and the State licensure programs in our Nation. State licensure has been, and continues to be, a major factor in assuring the high quality of health care available to all citizens.

I also related to the Senate committee several activities the AMA would undertake to address this disturbing problem. These activities, now being carried out, include using the AMA's unique data base—the physician master file—to alert the medical licensure boards in all States in which an individual has held a license, when that individual has been sanctioned in a different jurisdiction. Information on licensure actions and revocations are made available to the AMA on a monthly basis by the Federation of State Medical Licensure Boards. This effort allows States to act promptly against physicians who are the subject of State licensure actions. It protects the entire patient population, not just Federal program beneficiaries.

Another AMA response has been the modification of our model State discipline legislation. In light of the concern about practitioners who hold multiple licenses, we have modified our model bill to recommend to the States that they add suspension, revocation, or surrender of a medical license for cause related to competency in another State as grounds for disciplinary action.

Furthermore, the AMA has a policy of encouraging State medical societies to take appropriate action against sanctioned M.D.'s who may be members, just as the AMA terminates the AMA membership of any direct member whose license is suspended, revoked, or surrendered for cause.

In the case of suspension or revocation for cause relating to medical incompetency, we believe exclusion from participation in Medicare and Medicaid would be appropriate, regardless of licensure status in other States. We would add, however, that adequate safeguards must be provided in cases of possible exclusion to be sure that the original license suspension or revocation occurred for serious reasons relating only to competency and not merely because of a failure to pay registration fees, to obtain required continuing education credits or other technical reasons.

In conclusion, the AMA will continue its efforts to address the problem of sanctioned practitioners moving to other jurisdictions. We encourage States to adequately fund their medical licensing programs. We support efforts to close the gaps in the Secretary's authority which are discussed in the GAO report on this issue. Finally, we stress the importance of procedural due process for the individuals involved.

We would be pleased to answer any questions that the members of the subcommittees have.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF THE AMERICAN MEDICAL ASSOCIATION, PRESENTED BY JOHN J. RING, M.D.

Mr. Chairman and Members of the Subcommittees: I am John J. Ring, M.D. I am a physician in the general practice of medicine in Mundelein, Illinois, and I am a member of the American Medical Association's Board of Trustees. Accompanying me today is Ross N. Rubin, Director of AMA's Department of Federal Legislation.

The American Medical Association appreciates the opportunity to testify concerning H.R. 5989, the Medicare and Medicaid Patient and Program Protection Act.

This appearance marks the second time I have been before Congress to express the AMA's concern with certain health care practitioners who have lost a license to practice within one state and continue receiving reimbursement through federally-funded programs by moving to another state. I testified before the Senate Special Committee on Aging at the time of the release of a Government Accounting Office report on this subject. At that time I related that the AMA was gravely concerned that health care practitioners who have been found unfit to practice in one jurisdiction can relocate and practice in another jurisdiction where they hold a license. These practitioners discredit their professions and the state licensure programs in our nation. State licensure has been, and continues to be, a major factor in assuring the high quality of health care available to all citizens.

I also related to the Senate Committee several activities the AMA would undertake to address this disturbing problem. These activities, now being carried out, include using the AMA's unique data base—the physician master file—to alert the medical licensure boards in all states in which an individual has held a license, when that individual has been sanctioned in a different jurisdiction. Information on licensure actions and revocations are made available to the AMA on a monthly basis by the Federation of State Medical Licensure Boards. This effort allows states to act promptly against physicians who are the subject of state licensure actions. It protects the entire patient population, not just federal program beneficiaries.

Another AMA response has been the modification of our model state discipline legislation. In light of the concern about practitioners who hold multiple licenses, we have modified our model bill to recommend to the states that they add suspension, revocation, or surrender of a medical license for cause related to incompetency in another state as grounds for disciplinary action.

Furthermore, the AMA has a policy of encouraging state medical societies to take appropriate action against sanctioned M.D.'s who may be members, just as the AMA terminates the AMA membership of any direct member whose license is suspended, revoked or surrendered for cause.

We are pleased to see that Congress also has acted in the months that followed the GAO's documentation of this problem. The introduction of the Medicare and Medicaid Patient and Program Protection Act of 1984 addresses certain gaps in federal authority which can allow unfit practitioners to avoid the full weight of state licensing sanctions imposed on them. Gaps in federal authority where physicians have been able to relocate after losing a license for cause in one state have exposed Medicare and Medicaid beneficiaries and other patients to the risk of unacceptable quality health care. The AMA's Council on Legislation is scheduled to review this legislation in detail at their upcoming session this weekend. We will, of course, inform you of the results of the AMA's detailed consideration of the bill.

H.R. 5989 would subject certain individuals and entities to either mandatory or discretionary exclusion from participation in federal and federally funded state health care programs.

The situations delienated in this legislation (a detailed summary of the bill is attached to this statement) include those identified by the GAO, where harm to patients or to the health care program itself could result. They include:

Practitioners who lose their right to participate in Medicaid in one state and continue to participate in Medicare in that state or relocate to another where they hold a license and participate in both programs;

Practitioners who lose their right to participate in Medicare and continue to participate in Medicaid in any state where they hold a license;

Practitioners who lose their license in one state and relocate to another state where they hold a license and participate in Medicare and Medicaid;

Practitioners who are convicted of crimes not directly related to Medicare and Medicaid and continue to participate in both programs; and

Practitioners whom the Secretary has sanctioned at the recommendation of a PRO/PSRO under Medicare and who continue to participate in programs under Titles V, XIX and XX.

The AMA supports legislation to correct these existing shortcomings.

Closing gaps such as these would assist in safeguarding the Medicare and Medicaid program and beneficiaries from unqualified practitioners. In the case of license suspension or revocation for cause relating to medical incompetencey, we believe exclusion from participation in Medicare and Medicaid would be appropriate, regardless of licensure status in other states. We would add however, that adequate safeguards must be provided in cases of possible exclusion to assure that the original license suspension or revocation occurred for serious reasons relating only to competency and not merely because of a failure to pay registration fees, to obtain required continuing education credits, or other technical reasons. Moreover, it is essential that appropriate procedural and substantive safeguards be provided during investigative and other administrative proceedings and hearings, together with opportunity for appropriate judicial review.

The scope of H.R. 5989, however, goes well beyond the recommendations of the GAO. In fact, some situations which could result in exclusion involve neither the professional fitness of the practitioner nor a serious threat to the program involved. For example, the Secretary could exclude from federal health care programs:

Any entity for failing to grant immediate access to its records and documents;

Any entity managed by an individual against whom a civil monetary penalty under Section 1128A has been assessed; and

Any individual or entity failing to supply information regarding certain subcontractors and business transactions.

Without diminishing the importance of complying with each and every administrative requirement of federal health care programs, such infractions are a far cry from losing a license to practice medicine because of incompetence.

Another concern with this legislation involves procedural due process. In situations where an action by a state licensing board or a judicial body is the basis for exclusion, reliance on the state board's or court's due process procedures should be adequate. We are concerned, however, with situations where the exclusion is based strictly on the Secretary's determination. This legislation should spell out in specifics the procedural due process protections afforded to any alleged violator. These fundamental protections are basic to our system of justice and cannot be too strongly emphasized, considering the consequences of an exclusion determination. As I have said, a detailed consideration of this legislation by the AMA is scheduled for this weekend. We will be pleased to forward our additional comments to you.

In conclusion, the AMA will continue its efforts to address the problem of sanctioned practitioners moving to other jurisdictions. We encourage states to adequately fund their medical licensing programs. We support efforts to close the gaps in the Secretary's authority which are discussed in the GAO report on this issue. We would add a caution against diluting the effect of exclusion by authorizing it where other administrative sanctions suffice and where patients are not at risk. Finally, we stress the importance of procedural due process for the individuals involved.

We would be pleased to answer any questions the members of the Subcommittees may have.

Chairman JACOBS. Thank you, John.

Mr. Lee.

STATEMENT OF RICK LEE, DIRECTOR OF PUBLIC POLICY, WASHINGTON BUSINESS GROUP ON HEALTH

Mr. LEE. Thank you, Mr. Chairman.

I am Rick Lee of the Washington Business Group on Health and I intend to be brief. We chime in with strong support for this legislation. We recognize that we are talking about a very small percent of the health care practitioners in this country and we applaud the closing of the circle of the old boys network as was testified to earlier.

In the spirit of public and private partnership, however, I would like to submit that if we move forward with this legislation we are ignoring a very large sample of the American population. To echo

Mr. Kusserow's words, beneficiaries do not have the ability to research the background of the providers who will treat them. Therefore, if we protect Medicare and Medicaid beneficiaries, we are only protecting half of the American population.

He also said we need to avoid the problem of second-class medicine. Lo and behold, once again if they are going to protect Medicare and Medicaid we are not protecting people like you and me who are in the community and exposed to these kinds of practitioners who have been sanctioned and continue to practice medicine.

He said there were scarce health care funds and we need not expend them on this procedure. The private sector is also expending more than $150 billion on health care. It does not need to add to those costs in order to build in duplicative services to protect private sector beneficiaries.

There are many Federal programs that protect the health and safety of all Americans. We have the EPA, the Federal Drug Administration, the FAA, and OSHA and it seems approprite that if we are going to protect all Americans that we address that in this legislation as well. I think that the efforts that are being described in this legislation are appropriate. I think that the legislation has a lot of promise and I think that what we heard today in testimony is that there are efforts out there at the State level designed to protect all Americans by disseminating information, by constructing clearinghouses that will be effective in alerting all Americans.

However, I address the issue that the GAO brought us to. There are grievous problems out there at the present time and if that is the situation we need to act now to protect all Americans.

Thank you.

[The prepared statement follows:]

STATEMENT OF RICK LEE, DIRECTOR OF PUBLIC POLICY, WASHINGTON BUSINESS GROUP ON HEALTH

My name is Rick Lee. I am privileged to appear before you today as Director of Public Policy of Washington Business Group on Health. As you may well know, we are the only national organization comprised of major employers who recognized over a decade ago that business must be involved in the formulation of health cost management strategies and federal health policy. The companies that are members of the WBGH make medical purchasing decisions of great magnitude, serving approximately 50,000,000 covered employees, retirees, and dependents.

The topic for today's discussion, though not monumental in terms of overall Medicare and Medicaid reform, does represent a significant issue that should be confronted by Congress. The government should exert its power in preventing incompetent practitioners from collecting federal funds for their practice of medicine that has already been cited as unacceptable by state licensing boards. Fraudulent providers should be denied access to federal reimbursement; they should be held accountable for their past behavior.

I want to be very clear in expressing the reason for my presence at this hearing. I recognize that the kinds of transgressions that this bill would focus on are committed by a very small minority of the medical community. I acknowledge that by developing strategies to interdict the practices of dangerous or devious practitioners, the Congress is striving to clearly discriminate between those physicians who have made this country's medical delivery system the best in the world and a few rotten apples that not only would spoil the barrel, but who seriously threaten the health and safety of patients they treat. Responsible legislation in this vein is not an indictment against the medical profession; on the contrary, it is a commendable gesture that will elevate the finer providers to a more respectable and untarnished status.

Furthermore, it makes eminent sense that a government spending over $150 billion on medical care programs focuses not only on containing the costs of its investment in quality health care through Medicare and Medicaid, but also rejects the in-

vestment in substandard or bogus health care. Such a design should be a natural component of any effective health care cost management program.

I want to focus on what perhaps appears to be the greatest oversight in the legislation before us. The private sector is also investing billions of dollars in the health and well-being of its employees, dependents, and retirees. Millions of Americans, like you and me, would not be protected by H.R. 5989. It seems shortsighted to protect Medicare and Medicaid beneficiaries from the capricious and reprehensible practices of unfit providers while allowing those very same individuals to continue their abuses on unknowing souls in private sectors health plans. The Senate Aging Committee estimates that 36 million Americans are exposed to these unethical and negligent practitioners. I submit to you that we should not just protect the portion of that vast number of the population who are in Medicare and Medicaid.

The Food and Drug Administration protects all Americans from unsafe medical devices and drugs.

The Federal Aviation Administration oversees the safety of the skies for all Americans.

The Occupational Safety and Health Administration protects all Americans from unsafe or unhealthy work environments.

The Environmental Protection Agency protects all Americans from hazardous wastes that, through exposure, would diminish the health of all citizens in the proximity.

The list is endless, but the point is most apparent:

Why would the Congress only be satisfied with the protection of poor and elderly citizens from the egregious practices of practitioners already identified for their poor quality medicine? In trying to close up existing loopholes in the sanction statutes, why would the Congress not protect all of the millions of Americans exposed to unfit and unethical practitioners. I understand the jurisdictional issues that bring additional committees into the legislative process, but I cannot be satisfied with that argument when told that there are providers at this very minute neglecting medical problems, defrauding payers, incompletely treating patients, or sexually abusing patients. The fact that these very providers have already been identified and sanctioned for their abuses, yet they go with their practice in other states frightens me. If in fact patients are going to be protected from this small minority of the health professions, then why not extend such protection to all Americans?

To make the argument even more compelling, consider the amount of resources that the federal government will invest in order to restrict the practices of incompetent and fraudulent practitioners. Now imagine, if you will, the cost of private sector employers duplicating the government's efforts. State licensing boards perform the only monitoring tasks and their disciplinary actions, as you well know, are limited to the boundaries of their commonwealths. This means that monies that could be directed towards disease prevention or health promotion will be needlessly wasted to replicate the initiatives of the federal government proposed in this legislation.

Herein lies the real challenge to this Congress: determine a way to expedite this bill's journey towards law while adding protection for all Americans, not just Medicare and Medicaid beneficiaries. Business would endorse such a proposal and would be willing to assist in the achievement of that goal. In principle, the seven senators and six representatives that have brought this matter to our attention are to be congratulated for their recognition of a serious problem. I now ask that all Congress broaden the purview of H.R. 5989, "The Medicare and Medicaid Patient and Program Protection Act of 1984" to ensure the health and welfare of all Americans.

I thank you for the opportunity to express the views of my organization and its constituents.

Chairman JACOBS. Mr. Lee, I am sure you would distinguish between the FAA and the EPA and others in the regulatory group. There is a distinction between these groups and HHS. That group, for example, is not a customer in most instances, but the regulated. HHS is not traditionally a general regulator of services to the public. I wonder what your comment might be also on the question of the fundamental responsibility of the States to look after the licensure of professionals? Wouldn't that be a little problem so far as this legislation is concerned?

Mr. LEE. Well, what we are talking about is the fact that apparently the States are not meeting their responsibility in looking

after licensure. That is the problem we are addressing at this hearing today.

Chairman JACOBS. If I understand the legislation, it doesn't do anything until the State has met its responsibility, is that correct?

Mr. LEE. That is correct. However, if a practitioner moves to another State, that practitioner apparently can practice independently of any sanctions that have existed in other States.

Chairman JACOBS. I think I would have to put some caveat about the general regulatory public policy authority of the Federal Government in general and this legislation in particular, but your contribution is noted and I am sure we will discuss it.

Mr. Moore?

Mr. MOORE. Thank you, Mr. Chairman.

I would also like to address to Mr. Lee that the bill goes a bit beyond the fact that the States aren't doing the job. Medicare doesn't have the legal power in certain cases where the State does do the job to address that as well. One solace is the fact that whatever action the Secretary of HHS takes to exclude a physician or whatever we do under this bill, that information goes down to the Federation and the Clearinghouse just like their information comes to us. So, hopefully, if we find something that goes to them they will take appropriate action. Maybe there is grounds for the State to move against that physician to exclude him entirely. We share your concern, but we are not quite ready to go to the step you are talking about.

Dr. Ring, you pointed out that H.R. 5989 goes beyond the recommendations from the GAO report and you express concern over the exclusion authority for actions not involving the professional fitness of practitioners. This recommendation came from the inspector general, not from the General Accounting Office. There has been subsequent discussion about this proposed authority. Perhaps exclusion is too severe a penalty with respect to access to records and documents and other information. Suspension of payment has been suggested as an alternative approach in dealing with such matters.

Would suspension of payment be more acceptable to you than exclusion from the program in such a case?

Dr. RING. It would be to me personally. I would like the AMA's counsel to study it first.

Mr. MOORE. We hope to move this bill to conclusion before the end of this session, which is 3 weeks, counting this 1. You also expressed concern that the legislation should spell out in specifics the procedural due process protections. I believe you will find the bill does provide for reasonable notice and an opportunity of a hearing by the Secretary and to judicial review. All of this is already contained in the law and the bill merely refers to those existing provisions.

As you heard, I think, from my question to Mr. Dowdal, the due process protections are already in existing law. The bill proposes to exclude a practitioner only after he or she has gone through the existing due process proceedings. We are not trying to put a new set on top of it and don't think there is a necessity for a new set.

Dr. RING. We didn't want to imply that a 3-year waiting period for this due process is appropriate. We don't think that it is.

Mr. MOORE. Hopefully that can be reduced without interfering with due process.

Thank you, Mr. Chairman.

Chairman JACOBS. It was good of you both to contribute to the record. This closes our hearing.

[Whereupon, at 3:50 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

STATEMENT OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Thank you for the opportunity to submit a statement for the record on H.R. 5989, "The Medicare and Medicaid Patient and Program Protection Act of 1984".

The Medicare and Medicaid programs provide basic health care services for the elderly and the poor. In 1983, 51 million beneficiaries received $74 billion in health benefits under these programs. In addition to providing financial assistance, the Medicare and Medicaid programs are responsible for assuring that payment is appropriate and that health services meet specific standards.

Under present law, the Secretary may exclude from participation in the Medicare program physicians and other health professionals who: (1) knowingly submit false claims; (2) charge substantially more than their usual charges to other patients; (3) provide services substantially in excess of patients' needs or services which fail to meet professionally recognized standards of health care; or (4) are found by a peer review organization to be providing unnecessary or substandard care to program beneficiaries. Further, the Secretary is required to exclude individuals from Medicare and Medicaid who have been convicted of criminal offenses related to their participation in the respective programs. In addition to these exclusion and suspension authorities, the Secretary has the administrative authority under the civil monetary penalties provisions of the Social Security Act to assess financial penalties on health professionals and other individuals who file false or otherwise improper claims for reimbursement under the Medicare and Medicaid programs.

The Office of the Inspector General is responsible for investigating fraud and abuse in the Medicare and Medicaid programs, and for sanctioning physicians and other health care providers for fraudulent and unprofessional activities. Under these authorities, the number of sanctioned health providers and the amount of financial recoveries have increased dramatically in the last two years.

Despite these authorities and this effort, the Secretary has been unable to take needed action against certain health care practitioners and providers who continue to serve Medicare and Medicaid beneficiaries. For example, a provider convicted under the Medicaid program may still serve as a Medicare provider. Even though owners and staff of a facility have been convicted of defrauding medicaid, the facility may continue to receive Medicare and Medicaid payment as long as convicted personnel are not the direct service providers.

The bill under consideration, H.R. 5989, contains seventeen separate provisions to close such loopholes and provide needed sanctioning authority for the Secretary. For example, the bill would allow the Secretary to exclude individuals or entities who have been convicted of defrauding or abusing the Medicaid program from participating in the Medicare program, and vice versa. The bill would also allow exclusion of providers convicted of (1) fraud or financial abuse, (2) patient abuse, or (3) unlawful manufacture, distribution, or dispensing of controlled substances.

The bill would make a number of improvements in relation to the Civil Monetary Penalties law such as permitting a unified judicial review of the imposition of monetary penalties and Medicare and Medicaid suspensions. Another provision would increase a state's share of recoveries in Medicaid to encourage greater investigation and referral of Medicaid fraud cases by states. The bill would also provide a six-year statute of limitations and clarify the scope of the Civil Monetary Penalties statute to include penalties for double billing by providers and recoveries from individuals with false medical credentials.

In addition to extending existing authorities, H.R. 5989 would add a new provision to require a state medical licensing authority to notify the Secretary when it undertakes formal proceedings or disciplinary actions against a health care practitioner. The Secretary could exclude such individuals from participation in the Medicare program and direct state agencies to exclude these individuals from Medicaid, and programs funded under the Social Services block grant (Title XX) and Maternal and Child Health Service block grant (Title V).

These new provisions would provide important authority to protect the fiscal integrity of the Medicare and Medicaid programs and to address problems that may

endanger the health and safety of program beneficiaries. However, the specific features of the bill raise several concerns, particularly in the provisions relating to actions reported by state licensing authorities:

The need to increase the Federal oversight role should be carefully balanced with the possibility of excessive intrusion into matters under state jurisdiction. While Federal notification of state disciplinary actions involving loss of license is appropriate, this bill requires reporting of actions that do not necessarily involve Federally funded activities or relate to quality care.

The provision to permit Medicaid and Medicare provider participation criteria to go beyond final state licensure decisions should be seriously examined—such as presumption of guilt when a license is voluntarily surrendered, and excluding a practitioner on the basis of evidence found insufficient for a state board to justify more than a reprimand. The need to protect beneficiaries from potential abuses should be balanced with the need to assure the availability of services and the protection of practitioners from premature penalties.

Reporting requirements should assure that minimal burden is placed on states and participating agencies, and that information in the system and uses of the system are carefully defined and controlled. In addition, sufficient safeguards should be established to protect practitioners and providers.

The role of the Federal government and state Medicaid agencies as the administrators of a central clearinghouse on disciplinary actions of state licensing boards should be reconsidered. Alternative administrative mechanisms may be more efficient. For example, the Department is supporting an information exchange operated by the Federation of State Medical Boards. This system currently handles over 1000 inquiries per month from state boards on physicians who have lost their licenses. The Council of State Governments is developing a computerized Disciplinary Information System which will let a state know when another state disciplines a practitioner.

Flexibility in sanctioning authority should permit penalties appropriate to the offense. Minimum periods of exclusion should be included in the law only if there is evidence to support the minimum established and there is potential for administrative efficiencies.

CONCLUSION

In conclusion, we agree with the intent of H.R. 5989 to provide needed authority for the Secretary to take action against providers who are harming our beneficiaries or are defrauding our programs. However, we are concerned about specific provisions which unnecessarily intrude on states' rights in these matters or infringe on the basic rights of providers. We are also concerned that these changes facilitate proper management of the programs. We would support a more balanced approach that protects all parties—the beneficiaries, the programs, the states and the providers.

STATEMENT OF HON. JOHN GLENN, A U.S. SENATOR FROM THE STATE OF OHIO

Mr. Chairman, several months ago a Senate Special Committee on Aging hearing disclosed a serious and disturbing problem: Medicare and Medicaid beneficiaries are being legally "treated" in some states by doctors, pharmacists and other licensed health care professionals who have been determined by another state to be unfit to practice. These practitioners have been found to provide incompetent, dangerous and/or fraudulent care.

The seriousness of this situation is reflected by the fact that nationwide, relatively few disciplinary actions are taken by individual states to protect their citizens from being treated by unfit medical providers. State sanctions are only imposed when these doctors and other fail to meet the minimum in professional standards by committing specific unlawful acts, such as malpractice, sexual offenses or drug trafficking, or are alcohol and/or drug abusers themselves. Yet, due to the mobility of the licensed health care professionals and the corresponding custom of maintaining licensure in more than one state, it is shockingly easy to simply move onto greener pastures, in other words, to another state.

Testimony at the Special Committee on Aging hearing revealed that while state medical licensing boards sanction only a small number of providers, they forbid more from practicing than the Department of Health and Human Services (HHS) prohibits from participation in Medicare and Medicaid. This is because the boards have the responsibility to ensure that practitioners provide adequate patient care and can sanction them for actions related to any patient. In contrast, however,

under current law HHS's responsibility is limited to include only certain acts committed against the Medicare and Medicaid programs. Moreover, even this obligation is restricted. Under varying circumstances, doctors may be barred from participating in an individual state Medicaid program and continue to treat Medicare patients, and Medicaid beneficiaries in other states. Similarly, certain federal Medicare sanctions cannot be automatically transferred to Medicaid.

The Senate Aging Committee hearing on the practices of unfit health care providers had several conclusions. As Ranking Democratic Member of the Aging Committee, I vowed to work with Chairman Heinz to develop legislation that would prohibit the federal government from paying doctors and other medical practitioners who have been found unfit to practice. I said the legislation could be introduced promptly, in a bipartisan manner, and become law this year. We introduced S. 2744 in June. I am pleased that your committees are now deliberating House companion legislation.

The provisions of S. 2744 are relatively simple. They would give HHS authority to bar health care practitioners from participation in Medicare and Medicaid after they have been convicted of fraud, patient neglect, and abuse, and/or other illegal activities. This legislation would also be a major step toward "getting bad doctors off the road" and away from the public by creating an information network to track dishonest and dangerous medical providers. At present, sanctioned providers are able to relocate without any problem because the new states have no real way to investigate their backgrounds. With the multi-state licensure and mobile practice patterns of the licensed health professions, it is imperative that states exchange disciplinary information in order to adequately protect their citizens' health and safety.

The Aging Committee hearing revealed that the incidence of health providers who lose their license in one state and move to another to continue their lucrative practices has existed for some time. Unfortunately, it had never been thoroughly examined before the Committee began its investigations. I strongly believe that while the number of unfit doctors and other providers is small, the situation is so serious that it merits congressional enactment of legislation this session.

I appreciate this opportunity to express my views on the subject of unethical and incompetent medical practitioners. In closing, I ask that an article I read the other day in the paper be made part of the hearing record. It details the career of a doctor who temporarily had his medical license revoked four years ago for performing an illegal abortion on a seventeen-year old girl. The doctor now faces new and different charges related to his medical practices, yet still remains licensed in the District of Columbia, Virginia and Maine. This is the kind of doctor we want the states and the federal government to know about, and with enactment of the bill authorized by Senator Heinz and myself, we would have such a system.

If we can curtail the number of bad or drunk drivers on our nation's roads through the National Driver Register, surely we can take similar steps to limit the number of unfit health providers "treating" our nation's citizens, both young and old. We must ensure that those persons we entrust to make life-or-death decisions are competent and qualified to do so.

[Attachment]

[From the Washington Post, Sept. 24, 1984]

Simopoulos Sells Abortion Clinic Here—Doctor Faces Hearing Today in Norfolk Court

(By Mary Battiata)

Dr. Chris Simopoulos, the Northern Virginia physician scheduled to appear in court in Norfolk today in connection with what police have alleged was a scheme to perform abortion procedures on women who were not pregnant, has sold a medical clinic he ran in Falls Church.

Simopoulos' clinic, known as the American Women's Clinic, accounted for nearly one-fourth of the abortions reported in Northern Virginia last year, according to the Virginia Center for Health Statistics. The clinic, housed in a two-story white structure on W. Broad Street, reported 1,977 abortions in 1983, the center said.

The clinic is listed more than half-dozen times under various names in the Northern Virginia Yellow Pages, advertising "low cost abortions," which a receptionist said cost as little as $170.

It had a "very high volume," said Dr. Thomas H. Gresinger, a Fairfax physician who with others recently purchased the Falls Church clinic from Simopoulos. "The phone is still ringing off the hook there," Gresinger said.

Simopoulos, 47, who until recently operated a Woodbridge medical practice as well as a clinic in Norfolk and the one Falls Church, has been charged with two felonies linked to his Norfolk clinic.

He first was arrested July 25 as he allegedly prepared to perform an abortion procedure on an undercover policewoman who police said had falsely been told by Simopoulos that she was pregnant. On Sept. 5, he and another clinic physician were charged with performing an illegal abortion there.

Simopoulos, who was convicted four years ago in Fairfax Circuit Court of performing an illegal abortion on a 17-year-old Woodbridge girl at the Falls Church clinic, has contended through his lawyer that he is innocent of all charges. He sold his Norfolk clinic several weeks ago after his first arrest this summer.

Gresinger, who operates another medical clinic in Fairfax that offers abortions, said Simopoulos "called me about two weeks ago; he just figured I might be interested. We've bought it. It is now Commonwealth Women's Clinic."

Fairfax County Commonwealth's Attorney Robert F. Horan Jr. disclosed in an interview that his office began investigating the Falls Church clinic after Simopoulos was arrested in July. Horan said that the sale would effectively end his investigation.

The Norfolk arrest followed an investigation during which more than a dozen women allegedly had been given false pregnancy tests at the clinic, authorities said.

Simopoulos was charged with a felony count of obtaining money under false pretenses and was released on bond. He is to appear in Norfolk General District Court today for a preliminary hearing.

The Virginia State Board of Medicine subsequently suspended his medical license pending the outcome of his trial, saying that he posed "an imminent danger to the public safety and welfare."

Simopoulos and Dr. Parviz Modaber, a Culpeper physician, face one criminal charge each for allegedly performing a second-trimester abortion at an unlicensed facility a felony.

The law states that abortions performed after the first trimester of pregnancy—12 weeks—must be performed in a licensed hospital or clinic. Neither the Falls Church clinic nor the Norfolk clinic had such licenses, according to state health authorities.

Simopoulos received a two-year prison sentence for his 1980 convictions. All but 30 days of that sentence were suspended and his medical license was revoked. It later was restored along with privileges at several Northern Virginia hospitals. He fought the conviction all the way to the Supreme Court, which upheld his conviction last year.

Simopoulos, a Greek immigrant [was licensed] to practice in Virginia in 1969, three years after graduating from medical school at the University of Athens. At the time of his 1980 conviction, Fairfax Circuit Judge F. Bruce Bach complimented Simopoulos on the achievement of having come from "illiterate parents in the mountains of Macedonia" to medical school and a practice in the United States. "For my understanding . . . it's probably equivalent to a sharecropper's kid from South Carolina in the '30s getting through Harvard. It's something to be proud of."

Simopoulos's Norfolk attorney, George Christie, said his client will plead not guilty to all charges. Modaber, who has a practice at the Falls Church and Norfolk clinics, did not return a reporter's telephone calls. Modaber was successfully sued for malpractice in 1982 and subsequently was barred from using Culpeper Memorial Hospital after hospital officials said he needed more training.

Simopoulos remains licensed to practice medicine in the District of Columbia and Maine, a point that has prompted criticism from the Norfolk chapter of the National Organization for Women.

"I just can't believe it," said Janice Kohl, a member of the Norfolk chapter of NOW, which initiated the investigation of the Norfolk clinic. "This indicates to me that something has to be done at the federal level to coordinate information [about suspended licenses]. The system isn't working."

Simopoulos applied to Maryland for a medical license this year, but authorities there rejected the application because of his 1980 conviction.

Joseph Sarnella, staff director of the District's Commission on Licensure, said Thursday that his office was looking into Simopoulos's case.

The Virginia State Board of Medicine recently decided not to take any action on Modaber's license until after a hearing before the full board.

Simopoulos has been named in a $1 million malpractice suit filed in March in Fairfax Circuit Court by a Reston woman charging Simopoulos with negligence

during two gynecological procedures in 1982 that allegedly left her infertile. The woman has filed a separate $250,000 damage suit against Simopoulos, charging him with assault and battery for allegedly performing surgery on her against her will.

Simopoulos attorney Christie declined to comment on the lawsuits.

SANTA FE, NM, *September 19, 1984.*

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. JOHN J. SALMON: I would strongly recommend and urge the Congress to pass any Legislation that decreases the chance of "unprofessional and dishonorable" physicians being able to participate in any Government sponsored programs and continue to practice medicine in any State or territory. I personally strongly approve of a centralized collection of information re the requirements of State Licensing Authorities reporting to a central Government Agency and vice versa. I would hope that the Congress would deem it necessary for both the State Licensing Agency to supply information and to request information from such a centralized source.

My only objection to the printed material I have received on "Background" "H.R. 5989" is that it is too limited in scope. I would suggest that what the Congress really wishes to insure, is that when any patient sees a doctor that that doctor is a decent, competent physician. My understanding of the present system is that the Federal Government relies on State Government via the licensing process to assure that physicians are "competent and decent." I would suggest that if one considers State licensing processes in light of the recent CETEC seat scandals and the whole question of medical education and licensing, that grave questions are raised re competency of many licensed physicians. The practice of exporting problems from State to State may not be a theoretical problem but may be an actual problem.

Obviously Federal Legislation re the delivery of health care via the Medicare/Medicaid programs attempts to have a fairness towards each U.S. citizen regardless of his place of residency in the United States. I would suggest that the Federal Government and the Legislative Branch must consider whether State Licensing Laws foster or hinder the idea of equality of physicians in each State.

Sincerely yours,

JAMES W. MAYER, M.D.

STATEMENT OF THE NATIONAL ASSOCIATION OF MEDICAID FRAUD CONTROL UNITS, RICHARD E. PLYMALE, PRESIDENT

The National Association of Medicaid Fraud Control Units was organized to share information and provide technical assistance in order to investigate and prosecute Medicaid fraud more effectively. During the past five years, the Association has developed a number of resources, including a newsletter, training programs and a library of informational materials. In addition to these training and informational sources, the Association provides informal advice and assistance to its member Units and to those states that are considering proposals to have a certified Unit. Currently, the Association represents all thirty-three certified state Medicaid fraud control units and maintains a Washington office at the National Association of Attorneys General.

The Units are moving vigorously to root out fraud and patient abuse from the Medicaid program. Since 1978, the state Medicaid fraud control units have obtained some 1,707 convictions. During 1984, alone, the efforts of the Units have resulted in 329 indictments and 197 convictions (obviously some of those indictments are still pending trial.) They also recovered over two million dollars in fines and restitutions and investigations have identified an additional eight million dollars in overpayments. Obviously, we're only scratching the surface. The Inspector General of Health and Human Services, together with the thirty-three fraud units now have the additional sanction of severe federal monetary penalties subsequent to conviction. We may for the first time in the history of federally funded health care systems begin to make a dent in recouping the dollars lost through fraud and abuse.

There is no doubt that the Medicaid Fraud Control Units have become this nation's most effective force to prosecute and prevent health care fraud in the Medicaid system. Together with our federal counterparts in the Office of Investigations, Office of Inspector General, Department of Health and Human Services, we are be-

ginning to develop a formidable investigative task force to ferret out fraud in federally funded health care systems.

The National Association of Medicaid Fraud Control Units endorses the Medicare and Medicaid Patient and Program Protection Act of 1984, but would like to offer two recommendations for amendments. In particular, we are encouraged by the provisions which would require the Secretary of the Department of Health and Human Services to exclude providers who have been convicted of a criminal offense related to their participation in the delivery of items or services under the Medicaid program; and authorize the Secretary to exclude providers who are convicted of defrauding the government, of neglect or abuse of patients, or of narcotics offenses. We believe the Medicaid system is well rid of criminal providers.

There is, however, a significant class of Medicaid criminals whom the law would not cover. A growing number of providers have avoided conviction for substantive crimes related to their participation in the delivery of items or services under the Medicaid program through the simple, but entirely illegal, expedient of obstructing justice.

Their tactics have included destroying and altering physical evidence, bribing and intimidating witnesses, and suborning perjury. Many of these offenses have been successfully prosecuted, but there is nothing in H.R. 5989 which would allow the Secretary to exclude these guity providers from the system.

Among the most prevalent "defenses" to a Medicaid fraud investigation is to unlawfully refuse to comply with a subpoena for financial records, often accompanied by a perjurious claim that they have been lost or stolen. In New York, for example, both the owner of the largest nursing home in the state and one of the three largest individual providers have been adjudicated in contempt and have served time in jail for willful refusal to turn over their books and records in response to a subpoena issued by the Medicaid Fraud Control Unit. Yet those adjudications would not disqualify these providers from continuing to receive hundreds of thousands of Medicaid dollars a year. All the evidence indicates that their decision to ignore the subpoenas was based on cold calculation: the penalties for contempt are less than the penalties for the massive frauds which might have been revealed. Obviously a major factor in the calculation is that suspension from the lucrative program might follow a fraud conviction, but not a conviction for contempt or other forms of obstructing justice. It thus simply makes good economic sense to criminally conceal evidence of Medicaid fraud.

We believe that the financial integrity of the Medicaid system requires the elimination of this incentive. The law, we submit, cannot blithely continue to treat providers who successfully withhold, destroy or tamper with evidence of substantive crimes more indulgently than those who are convicted of such crimes. Accordingly, we recommend that the following paragraph be inserted as paragraph (3) of subdivision (b) of proposed section 1128 (and that the remaining paragraphs be renumbered accordingly):

(3) Any individual or entity that has been convicted, under Federal or State law, of perjury, contempt, bribery, subordination, tampering with witnesses or evidence, or any other offense whose commission was intended or tended to obstruct, impede, mislead or interfere with any trial, hearing, official proceeding or investigation arising out of or relating to the alleged commission of any offense described in subsection (a) or paragraph (1) or (2) of this subsection.

As a further method of deterring providers who wrongfully deny or delay access to records, we recommend that failure to grant prompt access to Medicaid Fraud Control Units, as now required under the State plan pursuant to 42 CFR 431.107(b)(2), should also be a ground for exclusion.

Paragraphs (10) and (11) of subdivision (b) of proposed section 1128, as currently drafted, would give the Secretary power to exclude an entity that fails to grant, upon reasonable request, access to the Secretary; to the various agencies used by the Secretary and State agencies for the purposes of determining eligibility and conducting reviews and surveys; or to the Inspector General. We believe it would be logical and desirable to add a fourth subparagraph to subdivision (11), to read as follows:

"(D) to a State Medicaid Fraud Control Unit meeting the requirements of section 1903(p) and entitled to such access under regulations promulgated by the Secretary."

We believe the incorporation in the bill of these two changes,—establishing prosecution related crimes as grounds for exclusion from the program and, further, establishing refusal to comply with mandated records access to Fraud Units, as grounds for exclusion from the program—are consistent with the goals of the legislation and would greatly strengthen its ability to effectively achieve them.

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